IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(Civil Appellate Jurisdiction)

First Appeal No. 715 of 2018

In the matter of:

Md. Iftekar Ahmod Sakil, being Minor represented by his father, Md. Hussain Ahmod Lokus and another

… Defendants-Appellants.

-Versus-

Md. Abdul Basit and others

…Plaintiffs-Respondents.

Mr. Md. Rafiqul Islam Faruk, with
Mr. Choudhury Murshed Kamal Tipu, Advocate

… For the appellants.

Mr. Manzill Murshid, Senior Advocate with
Mr. Sanjoy Mandal, Advocate

... For the respondent no. 1.

Heard on 19.03.2025, 23.04.2025, 30.04.2025 and 07.05.2025
Judgment on 13.05.2025

Present:

Mr. Justice Md. Mozibur Rahman Miah
And
Mr. Justice Md. Bashir Ullah

Md. Bashir Ullah, J.

At the instance of the defendants in Title Suit No. 26 of 2015, so filed for *haq-shufaa* (preemption) under Mahomedan Law, this appeal is directed against the judgment and decree dated 29.08.2018 passed by the learned Joint District Judge, First Court, Moulvibazar, decreeing the suit on contest against the defendant no. 1 and *ex parte* against rest.

After filing of this appeal, the appellant filed an application for stay. Upon hearing, this Court allowed the application and stayed the operation of the impugned judgment and decree dated 29.08.2018 passed by the learned Joint District Judge, First Court, Moulvibazar in Title Suit No. 26 of 2015 till disposal of the appeal.

The short facts leading to preferring this appeal are:

The present respondents as plaintiffs filed the aforesaid title suit for pre-emption under Mohammedan law stating *inter alia* that, the plaintiff and defendant no.3 are co-sharers in the suit land by inheritance and the plaintiff is also owner of the contiguous land to the suit plot by way of purchase. The land appertaining to plot No. 2525 of R.S. *Khatian* No. 622, measuring an area of 86 decimals originally belonged to the father of the plaintiff and defendant no. 3. Out of 86 decimals of land, 0.4285 acres were recorded in the name of the plaintiff as homestead. The suit land is an *ejmali* property and an undividable part of the plaintiff's homestead. The plaintiff returned home from the USA on 08.12.2014. On 05.01.2015 at about 10.00 a.m. he noticed that the guardian of defendant no.1, Md. Hossain Ahmed and defendant no. 3, along with a surveyor were measuring the suit land. Seeing that the plaintiff rushed to the suit land and upon an enquiry father of defendant no. 1, Hossain Ahmed Lokus disclosed that defendant no. 3 sold 0.0356 acres of suit land to defendant nos. 1 and 2 and he was taking specific possession by measuring the same. Being aware of the fact for the first time, the plaintiff loudly expressed his

desire to purchase the suit land forthwith remaining present in the same land. In this way, he performed '*Talab-i-Mowasibat'*. Hearing the loud conversation, Serazul Islam Budu, Abdus Moshabbir and a sister of the plaintiff, Lutfunnessa Begum rushed to the suit land from the plaintiff's dwelling house and then again the plaintiff expressed his desire to purchase the suit land for the second time in presence of witnesses. In this way, he performed the '*Talab-i-Ishhad'*. The suit land being part of his homestead is most necessary for the plaintiff. Defendant nos.1 and 2 are strangers to the suit land, and they have no land adjacent to the same. If defendant nos.1 and 2 are allowed to remain in possession in the suit land, the plaintiff shall fall in trouble with the peaceful enjoyment of his homestead. After receiving the certified copy on 14.01.2015, the plaintiff came to know the particulars of the impugned deed no. 5862 dated 30.11.2014. Defendant no.3 sold the suit land with a consideration of Taka 10,32,000/- to defendant nos.1 and 2 without giving any notice upon him. Hence, the plaintiff instituted the suit for *haq-shufaa* or pre-emption under the Mohamadan Law.

On the contrary, the defendant no. 1 contested the suit by filing a written statement denying all material averments so made in the plaint. The assertion so made in the written statement is that there is no cause of action to file this suit and the suit is not maintainable in its present form and nature, it is bad for defect of parties, it is barred by limitation and also barred by estoppel, waiver and acquiescence. The plaintiff did not perform any kind of '*Talab-i-Mowasibat'* or '*Talab-i-Ishaad'*, he is

not entitled to get any relief in the suit. The case of defendant no.1 is that although the land of suit holding was not separated formally, the same was partitioned amicably among the co-sharers. Defendant no. 3 was in possession in 0.0356 acres of the suit land along with other land by amicable partition and he decided to sell the suit land for his financial need. Defendant no. 3 requested one Mognuzzaman to find a buyer for the suit land. Then, he communicated with the father of defendant no. 1 who by inspecting the suit land, liked the position and decided to purchase the same in the name of defendant nos. 1 and 2. On enquiry, defendant no. 3 informed him that no other co-sharers have the financial ability to buy the suit land, and he also informed that he contacted the plaintiff by mobile regarding the sale of the suit land, but the plaintiff expressed his inability to purchase the suit land for his financial crisis. On the same day father of defendant no.1 went to another brother of the plaintiff, Akter Mia and on query, he also expressed his financial inability to buy the suit land and that time on request of defendant no.1, Akter Mia called his brother by his own mobile. Defendant no. 1 talked to the plaintiff and the plaintiff said that due to his financial crisis in America, he would not purchase the suit land. Then the father of defendant no.1 expressed his willingness to the plaintiff to buy the suit land for construction of a dwelling house. The plaintiff having known said that he had no objection if the father of defendant no.1 would purchase the suit land and also said that he would be a good neighbour. In this way, by getting assurance from the

plaintiff and other co-sharers of the suit holding, the fathers of defendant nos.1 and 2 purchased the suit land at Taka 12,25,000/-, but to reduce the cost of registration Taka 10,32,000/- was shown in the deed as value of the suit land. On 29.11.2014 at 4.00 p.m. father of defendant no.1 took possession of the suit land, and the next day on 30.11.2014, the deed was registered. From the first week of December 2014, the father of defendant no.1 started construction over the suit land and in the meantime, the construction of the house was completed and new electric meter, gas connection and motor were installed in the house. Nearly Taka 11,00,000/- was spent for the construction work. The defendants purchased the suit land with the knowledge of the plaintiff. The plaintiff filed the suit by making false statements on '*Talab-i-Mowasibat'* and '*Talab-i-Ishaad'* and hence the suit is liable to be dismissed.

In order to dispose of the suit, the learned Judge of the trial Court framed as many as 7(seven) different issues. To support the case, the plaintiff examined as many as 4(four) witnesses, including himself, while the defendants examined 03(three) witnesses. The plaintiff produced several documents which were marked as exhibits 1-4, and the defendants also produced several documents which were marked as exhibits 'Ka'-'Cha'.

Upon hearing the parties and on perusal of the pleadings and evidence, the learned Joint District Judge, First Court, Moulvibazar

decreed the suit on contest against the contesting defendant no. 1 and *ex parte* against the others on 29.08.2018.

Being aggrieved by and dissatisfied with the judgment and decree dated 29.08.2018 passed by the learned Joint District Judge, First Court, Moulvibazar in Title Suit No. 26 of 2015, the defendants as appellants preferred this appeal before this Court.

Mr. Md. Rafiqul Islam Faruk along with Mr. Chowdhury Morshed Kamal Tipu, the learned counsel appearing for the appellant upon taking us through the memorandum of appeal and the impugned judgment and decree along with the exhibits given in the paper book at the very outset contends that, the learned judge of the trial Court erred in law in not taking into consideration of the material fact that the plaintiff failed to comply with the mandatory formalities of *'Talab-i-Mowasibat'* and *'Talab-i-Ishhad'*.

He also contends that PW2 did not see the plaintiff to perform '*Talab-i-Mowasibat',* and in the evidence of PW4, stated nothing about *'Talab-i-Mowasibat'* and *'Talab-i-Ishhad'* and PW3 in his evidence failed to corroborate the first demand in support of the second demand *'Talab-i-Ishhad'* even though such formalities is absolutely necessary. The learned counsel in this regard placed his reliance in the decision passed in the case of ***Medni Proshad and others Vs. Suresh Chandra Tewari and others,*** reported in A.I.R. (30) 1943 Patna 96.

The learned counsel for the appellant next contends that it is essential to the perform certain ceremonies in case of *haq-shufaa* that is

'Talab-i-Mowasibat' and *'Talab-i-Ishhad'* and while performing *'Talab-i-Ishhad'* the pre-emptor should specify the property on which he is proclaiming his right of pre-emption but the plaintiff failed to disclose the specification of property in respect of which he was demanding his right of pre-emption and hence the suit is liable to be dismissed and the appeal will be allowed.

In support of his contention, learned counsel has also referred to the decision passed in the cases of ***Gajadhar Singh Vs. Radha Prasad Singh and others***, reported in A.I.R. (39) 1952 Patna 86 and ***Fakir Shaikh Vs. Syed Ali Shaikh and others***, reported in A.I.R. 1955 Calcutta 349.

He further contends that the plaintiff filed the pre-emption case against two minor purchasers, but the trial Court did not appoint any Court guardian in favour of the minor defendants, which is a violation of section 350 of the Mahomedan Law, and as such, the impugned judgment and decree is not sustainable in law. In this regard, the learned counsel referred to the decision passed in the case of ***Sukumar Sen and others Vs. Gouranga Bejoy Dey and others,*** reported in 42 DLR(AD)(1990)18.

The learned counsel also contends that defendant no. 1 completed a tin-shed house (semi pucca) in the suit land and installed gas, electricity and water line spending Taka 11,00,000/- (eleven lac) but the pre-emptor did not ascertain the value of the building and adjust the said value and improvement cost with the suit and in absence of those

the Court cannot pass any decree or allow the pre-emption and hence the impugned judgment and decree is liable to be set aside and the instant appeal be allowed.

He next contends that PW2 and PW3 are chance witnesses as they are inhabitants of another village which is far away from the suit land and no local neutral witnesses were examined yet the trial Court decreed the suit relying on the chance witnesses, which is liable to be set aside.

He further contends that the sale deed was registered on 30.11.2014, but defendant no. 3 handed over the suit land to the defendant nos.1 and 2 on 29.11.2014. Since the possession of the case land was handed over before registration, so the plaintiff had no right to file the pre-emption case.

He next submits that DW3 offered the plaintiff to purchase the suit land by telephone, but the plaintiff refused to purchase the land, expressing his financial inability, so the suit is barred by the principle of estoppel, waiver and acquiescence and finally prays for allowing the appeal by setting aside the impugned judgment and decree.

Per contra, Mr. Manzill Murshid, the learned senior counsel along with Mr. Sanjoy Mandal, the learned Advocate appearing for the respondent no.1 opposes the contention so taken by the learned counsel for the appellants and submits that, no illegality has been committed by the learned judge of the trial Court by decreeing the suit. So, the appeal is liable to be dismissed.

The learned counsel further contends that, the pre-emptor is a *shafi-i-sharik* that is, co-sharer in the suit land and *shafi-i-jar* that is the contiguous land owner to suit land. On the other hand, the pre-emptees-appellants are strangers. The plaintiff perfectly performed the required formalities, and declared his intention to assert the right immediately on receiving information of the sale of the suit land and thus performed '*Talab-i-Mowasibat'* and thereafter the plaintiff performed '*Talab-i-Ishhad'* in presence of witnesses.

The learned counsel further contends that, the father that one Mohammad Hossain Ahmed, the father of the defendant no.1 contested the suit as natural guardian and the father of defendant no. 2 received the summons but avoided proceedings with the suit on his behalf, so there was no necessity to appoint a guardian in the suit.

He goes on to submit that the defendants-appellants are not entitled to get any improvement costs from the plaintiff-respondent as they gave undertaking to this Court in First Miscellaneous Appeal No. 382 of 2015 that if the suit is decreed they would demolish the building at their own costs and they would not claim any improvement costs from the plaintiff.

The learned counsel next contends that right of pre-emption accrues on the date of registration of the sale deed. The pre-emptive right of purchase of the case land accrued to the pre-emptor only after the case land is sold to the purchaser pre-emptee by its owner and finally prays for dismissing the appeal.

We have considered the submission so placed by the learned counsel for the appellant and that of the respondent no.1, perused the memorandum of appeal and the impugned judgment annexed therewith and also read the deposition so made by the witnesses of the parties and perused the documents so exhibited.

In getting a pre-emption through *haq Shufaa* under the Mahomedan Law, which provides essential formalities enunciated in clause 236 of "Mullah's Mahomedan Law", where it has clearly been laid out how the formalities of *'Talab-i-Mowasibat'* and *'Talab-i-Ishhad'* have to be performed. For our ready reference, the provision of clause 236 of the Mahomedan Law is reproduced below:

> "236. **Demands for pre-emption.** No person is entitled to the right of pre-emption unless-
>
> (1) he has declared his intention to assert the right immediately on receiving information of the sale. This formality is called *talab-i-mowasibat* (literally, demand of jumping, that is, immediate demand) : and unless
>
> (2) he has with the least practicable delay affirmed the intention, referring expressly to the fact that the *talab-i-mowasiba*t had already been made, and has made a formal demand-
>
> (a) either in the presence of the buyer, or the seller, or on the premises which are the subject of sale, and

(b) in the presence of at least of two witnesses. This formality is called *talab-i-ishhad* (demand with invocation of witnesses)."

The plaintiff-respondent claimed that he performed all formalities properly, that is *Talab-i-Mowasiba*t and *Talab-i-Ishhad. Per contra,* the defendants-appellants contended that the plaintiff did not perform *Talab-i-Mowasibat* and *Talab-i-Ishhad.* At this juncture, we would like to examine whether the plaintiff complied with the provisions of clause 236 of the Mahomedan Law or not.

On going through the plaint, we find the plaintiff clearly stated in paragraph no.4 of the plaint that he loudly performed *Talab-i-Mowasiba*t stating " বাদী নালিশী ভূমি খরিদ বিক্রয়ের বিষয়ে সর্বপ্রথম জ্ঞাতসার হইয়া তৎক্ষনাৎ উচ্চস্বরে নালিশী ভূমিতে আমি মৌরসী সূত্রে শরীক ও লগ্ন ভূমির মালিক, নালিশী ভূমি আমার বসত বাড়ির অংশ। অতি প্রয়োজনীয় থাকায় তাহা ক্রয় করিতে আমি প্রস্তুত আছি। আমি শফি করিব, আমি শফি করিব, আমি শফি করিব বলিয়া তলব-ই-মোয়াছিবত সম্পন্ন করেন।" (vide page 76 of the paper book). The plaintiff as PW1 corroborated the version of the plaint stating in his examination-in-chief that when he noticed that the guardian of defendant no.1, Md. Hossain Ahmed Lokus, his brother defendant no.3 along with a surveyor on 05.01.2015 at about 10.00 a.m. came to measure the suit land, then he rushed to the suit land and upon an enquiry he knew the disputed sale for the first time and loudly performed the *Talab-i-Mowasibat* stating " উচ্চস্বরে বলি নালিশী ভূমি আমার মৌরসী ও লগ্ন ভূমি এবং আমার বসত বাড়ির অংশ। ফলে আমি নালিশী ভূমি

খরিদ করতে প্রস্তুত আছি। আমি শফি করিব, আমি শফি করিব, আমি শফি করিব বলে তলব-ই-মোয়াছিবত সম্পন্ন করি।" (vide page no. 116 of the paper book). We find no deviation in the cross-examination made by PW1. In cross examination, PW1 rather replied " তখন আমি জানাই যে, আমি শফি মামলা করব। আমি কয়েকবার বলি।" (vide page no.127 of the paper book).

The plaintiff after *Talab-i-Mowastbat* performed *Talab-i-Ishhad* in presence of the witnesses when PW1 deposed that- " উক্ত ব্যক্তিদের উদ্দেশ্য করে আমি নালিশা ভূমিতে উপস্থিত হয়ে বলি আপনারা সাক্ষী থাকেন ১/২ নং বিবাদী আমার বাড়ির অংশ আমার ভাই ৩ নং বিবাদী হতে আমার অজ্ঞাতে গোপনে খরিদ করেছেন এবং অদ্য ১/২ নং বিবাদী পক্ষে ১ নং বিবাদীর পিতা মাপঝোক করে দখল গ্রহণ করেছেন। অতে আমার শাফির অধিকার আছে। আমি প্রকৃত খরিদ মূল্য আদায়ে উক্ত ভূমি খরিদ করতে প্রস্তুত আছি। আমি কিছুক্ষণ আগে তলব–ই– মোয়াসিবত পালন করেছি।" (vide page no. 116-117 of the paper book). PW2, Abdus Moshabbir and PW3, Serazul Islam Badu corroborated the evidence of PW1 in respect of performing the *Talab-i-Mowasibat* and *Talab-i-Ishhad*. It appears that the evidence of three witnesses of plaintiff are consistent in respect of performing the *Talab-i-Mowasibat* and *Talab-i-Ishhad* by the plaintiff. Moreover, the record shows that at the time of performing the *Talab-i-Mowasibat* and *Talab-i-Ishhad* the father of the defendant no.1, Mohammad Hossain Ahmed and defendant no.3, the vendor were present.

The learned counsel for the appellant contends that in the suit, defendant nos.1 and 2 are minors and the plaintiff filed the pre-

emption case against two minor purchasers, but the trial Court did not appoint any Court guardian in favour of the minor defendants, which is a violation of section 350 of the Mahomedan Law. However, we find that one Mohammad Hossain Ahmed, the father of the defendant no.1, contested the suit as natural guardian and the father of defendant no. 2 received the summons but avoided to contest suit, so appointment of a guardian for the minors in the suit was not required at all.

The learned counsel for the appellant contends that, the defendant no.1 completed one tin-shed house (semi pucca) in the suit land and installed gas, electricity and water line spending Taka 11,00,000/- (eleven lac) but the pre-emptor did not adjust the said value and improvement cost while filing the suit and in absence of that the Court cannot allow the pre-emption. It appears from the record that during the pendency of the suit, defendant-purchasers were constructing a house in the suit land and then the plaintiff filed an application for temporary injunction against this construction work and defendant nos.1 and 2 filed a written objection against the application. After hearing, the trial Court on 19.04.2015 ordered both the parties to maintain *status quo* in respect of the suit land till disposal of the suit. Against that order dated 19.04.2015, defendant no.1 filed First Misc Appeal No. 382 of 2015 before this Court. At the time of pronouncement of judgment, the learned advocate of the defendant-appellant gave an undertaking that if the suit is decreed, the defendant would demolish the building at his own cost and he would not claim any improvement cost from the

plaintiff. In view of the judgment dated 09-08-2015 passed in First Miscellaneous Appeal No. 382 of 2015 (Exhibit-4), we are of the view that the defendants-appellants are not entitled to get any improvement costs from the plaintiff-respondent as they gave an undertaking to this Court.

It is contended that the sale deed was registered on 30.11.2014, but defendant no. 3 handed over the possession of the suit land on 29.11.2014. Since the possession of the case land was handed over before registration, so the plaintiff had no right to file the pre-emption case. The contention is not acceptable at all. Because, in the case of ***Fazaruddin Vs. Maizuddin and others***, reported in 44 DLR(AD)(1992) 62, it was held: "the right of pre-emption accrues after transfer of the land…". And similar view was taken by the Appellate Division in the case of ***Dewan Ali Vs. Md. Jasimuddin***, reported in 60 DLR(AD) (2008) 73, wherein it was held: "Right of pre-emption accrues on the date of registration of the sale deed. The pre-emtive right of purchase of the case land accrued to the pre-emptor only after the case land was sold to the purchaser pre-emptee by its owner and not before. Pre-emptive right does not exist before sale and so it is not enforceable before sale…"

Moreover, clause 232 of the Mahomedan Law provides that the right of pre-emption arises only out of a valid, complete and *bona fide* sale. The *Talab-i-Mowasibat* should be made after the sale is completed. It is of no effect if it is made before the completion of the sale.

The learned counsel for the appellants argued that DW3 offered the plaintiff to purchase the suit land by telephone, but the plaintiff refused to purchase the land, expressing his financial inability, so the suit is barred by the principle of estoppel, waiver and acquiescence. However, we find contradictions in the evidence adduced by the defendant's witnesses on that.

Because, DW1, Md. Hossain Ahmed Lokus stated that contact was made with other co-sharers, including the plaintiff on 21.11.2014. In cross-examination, he deposed that Aktar contacted the plaintiff by Mobile Phone (vide page 167 of the paper book). Md. Aktar Ahmed was examined and cross examined as PW4, but while cross-examining, the defendants did not put any questions on those particular facts regarding communication with the plaintiff in respect of sale of the suit land.

DW2, Mognuzzaman stated in examination-in-chief that he and Aktar communicated and had a conversation with the plaintiff who stayed in the USA in respect of purchase of the suit land. In cross-examination, he stated that he did not know the date of making telephone call to the plaintiff.

DW3, Abdul Hadi Rafi, stated in his examination-in-chief that his father asked his paternal uncle and aunts whether they would purchase the suit land where they refused to purchase the suit land. In cross-examination, he stated that his father asked his uncles and aunts

whether they would purchase the suit land before 5 to $5\frac{1}{2}$ years ago. The registration of deed of the suit land was made on 30.11.2014 and DW3 was examined on 26.07.2018. Meanwhile, 3 years 7 months and 26 days passed but he stated that his father asked his uncles before 5 to $5\frac{1}{2}$ years, which is not satisfactory in respect of refusal of purchase made by the plaintiff. While cross-examining the plaintiff, the defendants did not put any questions regarding his refusal to purchase the suit land or a telephone call alleged to have made to the plaintiff and that of conversation in respect of sales of the suit land.

It appears from the evidence adduced by the defendant witnesses that no specific date of telephonic conversation was disclosed. Regarding refusal to the proposal of sales of the suit land to the plaintiff through telephone, the evidence adduced by the witnesses of the defendants are not corroborative, satisfactory and as such not acceptable.

Admittedly, the plaintiff-pre-emptor was in the USA at the time of impugned sale, and he did not take part in bringing about the transaction. Moreover, the legal right of pre-emption cannot be taken away by mere verbal assurance of disowning claim of pre-emption or negotiating the contract of sale or consenting the sale to others or refusal to purchase the suit land due to financial inability of the plaintiff where purchaser-defendants failed to produce corroborative, satisfactory and acceptable evidence in support of the case of estoppel,

waiver and acquiescence. So in absence of reliable evidence and other facts and circumstances, no conduct of the pre-emptor can be treated as estoppel, waiver and acquiescence before the sale. In the case of ***Dewan Ali (Md) Vs. Md. Jasimuddin and others*** reported in 60 DLR (AD) 73, the Appellate Division held:

> "... No conduct of the pre-emptor before sale of the case land refusing to purchase the same or consenting sale thereof to another can constitute waiver, acquiescence or estoppel demolishing his right of pre-emption. The bare requisite for extinction or demolition of pre-emption right lies in the accrual or existence of such right."

From the above discussion, it is clear that the plaintiff-preemptor has no conduct before or after the sale of the suit land, constituting estoppel, waiver and acquiescence or anything affecting his right of pre-emption. So, the suit is not barred by estoppel, waiver and acquiescence of the plaintiff.

It is contended by the learned counsel appearing for the appellant that the plaintiff failed to disclose the specification of the suit land in respect of which he was demanding his right of pre-emption. We have gone through the plaint to examine the said arguments. It appears from paragraph no. 4 of the plaint that on 05.11.2015 at 10:00 a.m., the plaintiff saw the seller-defendant no. 3 and the father of purchaser-defendant no.1, Md. Hossain Ahmed Lokus were measuring the suit land, and then he rushed to the suit land and shouted there stating that

he was the co-sharer in the suit land by inheritance, he was the contiguous land holder as well and the suit land was part of his homestead, and the same was very essential to him and hence he was ready to purchase the suit land and he stated that, "আমি শাফি করিব, আমি শাফি করিব , আমি শাফি করিব"। Thus, he performed *Talab-i-Mowshibat*. Upon hearing the shouting of the plaintiff, Sirajul Islam Budu (PW3), Md. Abdul Moshabbir (PW2), Lutfunnessa Begum and Akter Ahmed (PW4) rushed to the suit land. In the presence of the four witnesses, the purchaser and seller, the plaintiff once again declared that he was ready to purchase the suit land by paying the appropriate value, and he had the right to *haq-shufaa* in the suit land. Thus, he performed the second demand, that is, *Talab-i-Ishhad*. Thereafter, he filed the title suit. It appears from the plaint that the plaintiff specifically described the specification and description of the suit land, mentioning the name of Mouja, *Khatian* number, plot number, area, boundaries and type of land.

In view of the above facts and circumstances, we find no substance in the contention regarding disclosing the specification of the suit land.

Given the above facts and circumstances *vis-á-vis* the discussion and observation made herein above, we do not find any merit in the appeal that warrants any interference with the impugned judgment and decree. We also do not find any illegality or impropriety in the impugned judgment and decree, which is liable to be sustained.

Resultantly, the appeal is dismissed, however, without any order as to costs.

The order of stay granted earlier by this Court hereby stands recalled and vacated.

Let a copy of this judgment and decree, along with the lower Court records, be communicated to the Court concerned forthwith.

Md. Mozibur Rahman Miah, J.

I agree.

Md. Sabuj Akan/
Assistant Bench Officer