

**Present:-*****Mr. Justice Mahmudul Hoque*****Civil Revision No.3707 of 2019**

Md. Masudar Rahman Mithu and another  
... Petitioners

-Versus-

Khondoker Kamruzzaman and others  
... Opposite- parties

Mr. Ashfaur Rahman with  
Mr. Sumit Kumar Sarker, Advocates  
...For the petitioners

Mr. Md. Boktiar Hossain, Advocate for  
Mr. Md. Golam Rossul and  
Mr. Sk. Eusuf Rahman, Advocates  
...For the opposite-party Nos.1-4.

**Judgment on 13<sup>th</sup> August, 2025.**

On an application under Section 115(1) of the Code of Civil Procedure, this Rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 25.09.2019 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Rangpur in Miscellaneous Appeal No.04 of 2018 allowing the appeal and thereby reversing the judgment and order dated 13.02.2018 passed by the learned Senior Assistant Judge, Mithapukur, Rangpur in Other Suit No.212 of 2017 allowing application for injunction should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts relevant for disposal of this Rule, in short, are that the petitioners, as plaintiff, filed Other Suit No.62 of 2017 subsequently renumbered as Other Suit No.212 of 2017 in the Court of Senior Assistant Judge, Mithapukur, Rangpur against the present opposite parties, as defendant, for a decree of permanent injunction, claiming that the plaintiffs purchased 3.5 decimals of land from Sadek, Meraj and successor of Salam vide registered Sale Deed No.18339 dated 03.12.2015 on the eastern side of Highway Road named R.K. Road, Rangpur. The defendants claiming the suit property of their purchased land vide registered Sale Deed Nos.11452 dated 09.08.1989, 12008 dated 24.08.1989 and 12462 dated 03.09.1989, on the west side of said R.K. Road and threatened the plaintiffs with a dispossession on 27.02.2017 at 10.00 o'clock forming an unlawful assembly with locally made deadly weapons. Being failed, uttered that they will dispossess the plaintiffs from the suit land at any time by force. Consequently, they filed the instant suit for a decree of permanent injunction against the defendants. In the suit, the plaintiffs filed an application under Order 39 Rules 1 and 2 read with Section 151 of the

Code of Civil Procedure praying for temporary injunction against the defendants till disposal of the suit.

The defendants appeared in suit and filed written objection against the application for injunction. The trial court took the matter for hearing and after hearing both the parties by judgment and order dated 13.02.2018 allowed the application and granted temporary injunction restraining the defendants from dispossessing the plaintiffs from the suit land till disposal of the suit.

The defendants being aggrieved by and dissatisfied with the judgment and order of the trial court, preferred Miscellaneous Appeal No.04 of 2018 before the learned District Judge, Rangpur. Eventually, the appeal was transferred to the Court of learned Joint District Judge, 1<sup>st</sup> Court, Rangpur for hearing and disposal, who after hearing by the impugned judgment and order dated 25.09.2019 allowed the appeal and thereby set aside the order of the trial court. At this juncture, the petitioners moved this Court by filing this revisional application under Section 115(1) of the Code of Civil Procedure and obtained the present Rule and order of stay and status-quo.

Mr. Ashfaque Rahman with Sumit Kumar Sarker, learned Advocates appearing for the petitioners submits that the disputed land covered by S.A. Plot No.2826 measuring 84 sataks out of which 55 sataks was acquired by the government, remaining 29 sataks alleged to have been transferred by the owners to the defendants by 3 sale deeds of the year 1989. All those sale deeds have definite boundary wherein, the defendants purchased the land situated on the western side of the Highway named R.K. Road. But the plaintiffs purchased the land on the east side, is totally situated at a long distance from the land purchased by the defendants. He submits that whether the defendants purchased land situated on the western side and the vendors delivered possession to them and whether the plaintiffs are in possession of 3.5 sataks land on the eastern side of the road, are matters to be decided by the trial court at the time of trial on evidence. He submits that at this stage, it cannot be ascertained on which portion of the land the defendants are in possession.

He finally submits that this court at the time of issuance of the Rule directed both the parties to maintain status-quo in respect of possession and position of the suit land which is still subsisting, as

such, maintaining the order of status-quo if the trial court is directed to dispose of the suit within a fixed time justice will be met and purpose of the parties will serve. He submits that unless the order of status-quo is maintained, since this is a suit for injunction and during pendency of the suit, the plaintiffs are dispossessed the relief of the suit sought for will be frustrated, as such, on that count the plaintiffs have balance of convenience and inconvenience in their favour.

Mr. Md. Boktiar Hossain, learned Advocate appearing for Mr. Md. Golam Rossul, learned Advocate for the opposite party Nos.1-4 submits that apparently from the face of plaint, application for injunction and written objection thereto, it is admitted that the suit Plot No.2826 contain only 84 sataks of land out of which 55 sataks acquired by the government, remaining 29 sataks was purchased by the opposite parties by 3 sale deeds of the year 1989 from the same vendor. Present plaintiffs alleged to have purchased 3.5 sataks of land from eastern side of the plot. He submits that their remain no land after purchase by the defendants to be transferred by the vendor in favour of the plaintiffs, as such, the plaintiffs have no prima facie case

at all. He argued that the point remains whether the plaintiffs are in possession of the suit property.

He submits that unless the plaintiffs acquired prima facie title in the suit property by purchase they are not at all entitled to claim possession of the property without any title. The trial court though granted injunction against the defendants, but on appeal the appellate court set aside the order rightly holding and observing that to get an order of temporary injunction the plaintiffs is to satisfy the court that a prima facie case exists in their favour, balance of conveniences and inconveniences and irreparable loss if the order of injunction is not granted. In the instant case, at the very outset the plaintiffs failed to show a prima facie case in their favour, balance of conveniences and inconveniences and irreparable loss, therefore, the impugned judgment and order passed by the appellate court is not liable to be set aside.

Heard the learned Advocates for both the sides, have gone through the revisional application under Section 115(1) of the Code of Civil Procedure, plaint, application for injunction, written objection

thereto and the impugned judgment and order of both the courts below.

As admitted by both the parties the property measuring 84 sataks belonged to Sadek, Merej and successor of Salam from whom 55 sataks of land acquired by the government and remaining 29 sataks was sold to the defendants by 3 sale deeds of the year 1989. Those deeds contain boundary of the property purchased by them. Because of construction of road and passage of time position of the boundary may be changed.

Apparently, photocopy of the Sale Deed No.12462 dated 03.09.1989 in its schedule mentioned that 8 sataks of land situated on the western side of the road. The deed of the plaintiffs dated 03.12.2015 in its schedule boundary has been mentioned that the property situated on the eastern side of the road. But facts remain, in the suit plot there are no properties left for the vendor to be transferred in favour of the plaintiffs. Whether the plot in question has excess land physically beyond the quantum of land mentioned in the record of right and whether after purchase of 29 satakas of land by the defendants there remain excess land to be transferred by the vendor to

the plaintiffs are matter of evidence. But apparently, it appears to the court that the plaintiffs purchased the land having no title of vendor as per record of right. However, the plaintiffs claimed that by purchase they have been possessing the suit land with the knowledge of all and present record of right divided S.A Plot No.2826 into 3 plots. Because of division of plot the property claimed by the plaintiffs became separated with an independent Plot No.4470, but all the present plots stands recorded in the name of the defendants.

This is a suit for a decree of simple injunction and the issues to be decided by the court and to be considered possession of the respective parties. In the event of proving possession of the plaintiffs in the suit property and before trial if they are dispossessed or the plaintiffs take possession of the property dispossessing the defendants, the matter in dispute will not be competent for adjudication. Moreover, at the time of issuance of the Rule this Court passed order directing both the parties to maintain status-quo in respect of possession and position of the suit property, subsequently, extended till disposal of the Rule and the order was passed on 18.12.2019 about 6(six) years back and continued till today. While disposing the Rule,



order of status-quo is in operation and this Court thinks that this order may be maintained to keep the possession and position of the suit property as it was at the time of filing of the suit and justice will be met if the trial court is directed to dispose of the suit within shortest possible time giving top most priority.

In view of the above, I am inclined to dispose of the Rule directing the trial court to dispose of the suit within a definite period maintaining order of status-quo for ends of justice.

Accordingly, the Rule is disposed of, with the observations made hereinabove, however, without any order as to costs.

The trial court is hereby directed to dispose of the suit within shortest possible time preferably within 4(four) months from the date of receipt of this judgment and order giving top most priority and without allowing unreasonable adjournment to the plaintiffs. Order of status-quo shall continue till disposal of the suit.

Order of *stay* granted at the time of issuance of the Rule stand vacated.

Communicate a copy of the judgment to the Court concerned at once.

*Helal/ABO*