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

First Appeal No. 202 of 2015

In the matter of:

Haji Mohammed Hossain and others.
....Appellants.

-Vs-

Md. Kamrul Hasan and others.
...Respondents.

Present
Mr. Justice Mamnoon Rahman
And
Mr. Justice Md. Atoar Rahman

Mr. A.J. Mohammad Ali, Sr. Adv. with
Mr. Mohammad Ahasan, Adv.
Ms. Jamila Momtaz, Adv.
Ms. Bilkis Jahan, Adv.
…For the appellants.

Mr. Shahid Ullah, Adv.
…For the respondent Nos. 1 & 2.

Mr. Probir Neogi, Sr. Adv. with
Mr. Shah Monjurul Haque, Adv.
Mr. Mokarramus Shaklan, Adv
Mr. Md. Mahbubur Rahman (Kishore), Adv.
…For the respondent Nos. 6 & 7.

Heard on: 09.01.2023 & 16.02.2023
And
Judgment on: The 3rd March, 2023

Mamnoon Rahman,J:

This appeal is directed against the judgment and decree dated 01.12.2014 (decree signed on 05.01.2015) passed by the Joint District Judge, 3rd Court, Dhaka in Title Suit No. 10 of 2004 dismissing the suit filed by the plaintiff-appellants.

The short facts relevant for the disposal of this appeal, is that, the defendant Nos. 1 and 2 as well as their mother entered into an agreement with the plaintiff-appellants on 02.09.2002 for sale of the suit property in

question fixing Tk. 2,50,00,000/- as consideration money and at the time execution of the deed of agreement for sale the appellants paid an amount of Tk. 50,00,000/- vide six Pay Orders. Subsequently, Rowshan Ara the mother of the defendant Nos. 1 and 2 died leaving behind the defendant Nos. 1 and 5 who were duly substituted in the suit in question. During subsistence of the contract in question the appellants approached the defendants to accept the remaining consideration and to execute the deed of sale as promised in the deed of agreement for sale. But the defendants declined to do so because of the illness of their mother. Subsequently, the defendants issued a legal notice on 10.02.2003 which was duly replied by the appellants on 23.03.2003 also the defendants issued two legal notices dated 15.04.2003 and 04.05.2003 respectively. Subsequently, the plaintiff-appellants issued a legal notice to the defendants o n 11.01.2004 requesting them to execute the sale deed by accepting the remaining balance within 3(three) days. Despite issuance of the notice the learned Advocate for the defendants published notice in daily Newspaper regarding execution of agreement for sale in between the Vendor and the defendant Nos. 6 and 7 which was opposed by the learned Advocate for the appellants and finding no other alternative remedy the plaintiffs filed the suit on 28.01.2004 for Specific Performance of Contract. The defendants contested the suit by filing written statement denying all the material allegations made in the plaint. The case of the defendants, are that, admittedly they entered into an agreement for sale with the plaintiffs

fixing 5(five) months for execution of the same and since the plaintiff-appellants failed to pay the remaining balance for getting the Kabala they issued legal notice. The further case of the defendant-respondents, are that, the appellants replied to the legal notice and expressed their inability to pay the money unless they get money from selling of other lands. Despite that the defendants issued three legal notices in February, April and May but despite that the plaintiff-appellants failed to get the Kabala by paying the remaining balance and as such the suit is liable to be dismissed on several counts. The added respondent Nos. 6 and 7 who are the subsequent purchaser of the suit property entered appearance and contested the suit by filing a written statement denying all the material allegations made in the plaint and supported the case of the defendant Nos. 1-5. In their written statement the defendant Nos. 6 and 7 narrated the facts and circumstances as well as the chronological event happens in relates to the property in question as well as execution of the sale deed in their favour on 11.09.2007 and handing over possession. They also stated that after obtaining the possession they mutated their names and paying rent and taxes and enjoying the peaceful possession of the suit property. It appears that the trial court proceeded with the suit and after hearing the parties, considering the facts and circumstances as well as evidences both oral and documentary dismissed the suit on 28.08.2007. Being aggrieved by and dissatisfied with the aforesaid judgment and decree passed by the trial court the present appellants-plaintiffs preferred appeal being First

Appeal No. 4 of 2008 before this court. This court after hearing the parties and considering the facts and circumstances allowed the appeal and set aside the judgment and decree passed by the trial court and sent back the suit to the trial court for remand afresh. After receiving the L.C. Records from this court the trial court proceeded with the suit as directed by this court wherein the trial court after hearing the parties, considering the facts and circumstances as well as evidences both oral and documentary dismissed the suit vide the impugned judgment and decree. Being aggrieved by and dissatisfied with the aforesaid judgment and decree passed by the trial court the appellants preferred the instant appeal before this court. The respondent Nos. 6 and 7 contested the appeal by filing power and also filed affidavit-in-opposition against the application filed by the plaintiff-appellants for taking additional evidence which were kept with the record to be considered at the time of disposal of the appeal.

Mr. A.J. Mohammad Ali, the learned senior counsel appearing on behalf of the appellants submitted that the court below without applying its judicial mind and without considering the facts and circumstances, evidences both oral and documentary and in an arbitrary manner passed the impugned judgment and decree which requires interference by this court. He submits that in the present case in hand the trial court failed to consider the case of the plaintiffs and defendants side by side as well as misdirected itself by an erroneous finding causing substantial injustice as well as affecting the balance in the equity. He submits that admittedly an

order in a suit for Specific Performance of Contract is an equitable order but at the same time a heavy duty cast upon the court of law to consider and see the practical aspects of the suit before adjudication of the same in its entirety. As per the learned counsel a suit for Specific Performance of Contract is to be considered as a whole and keeping in mind the balance of equity and all other aspects which were very much absent in the case in hand. The learned counsel gave emphasized upon the deed of agreement for sale as well as the subsequent development, namely the correspondences and submits that due to the time is not the essence of the contract in the case in hand as much as there was no negligence and latches on the part of the plaintiffs in any manner rather the plaintiff-appellants filed the suit because of the reluctance of the defendants an execution of the sale deed by taking balance amount. He submits that there is no latches on the part of the appellants regarding the readiness and willingness to perform their part which was misinterpreted by the trial court resulting which the court below committed an error occasioning failure of justice. The learned senior counsel raises the question of fairness in the subsequent development namely sale of the property in a much lesser value to the respondent Nos. 6 and 7 which clearly shows that there are some undue practices just to frustrate the legal right accrued in favour of the plaintiffs by *dint* of the agreement for sale which has been performed in part by payment of partial consideration at the time of execution of the same. The learned senior counsel further submits that the

question of lispendence hit the present proceeding as because the subsequent transaction was made during pendency of the proceeding which is to be considered by this court while examining the suit in its entirety. The learned senior counsel placed all the subsequent correspondences in between the legal representative of the parties and submits that the time framed as prescribed in the agreement for sale lost its force and extended by offer and counter offer and as such this is a fit case for a decree of Specific Performance of Contract. He also raises the provisions of section 55 of the Contract Act as much the very purpose of the sale which is not necessity of money but regarding managing the property in question as much as the learned counsel submits that there is no latches or negligence on the part of the appellants rather the defendants shows their reluctancy to execute the sale deed during subsistence of the time fixed in the contract citing the illness of the mother of the defendant Nos. 1 and 2 which clearly shows that all facts and indicators in favour of the appellant-plaintiffs. He further submits that any correspondence the plaintiff-appellants neither denied the contract nor refused to pay rather shows their readiness and willingness which was misconstrued by the trial court and as such the impugned judgment and decree is liable to be interfered by this court on the above counts and the instant appeal is liable to be allowed. The learned senior counsel also submits that the plaintiff-appellants have sufficient fund available at that time as submitted with the application for additional evidence which clearly shows the contention of

the defendants regarding non co-operation and shortage of fund is not sustainable in the eye of law though we kept the same with the record to be considered at the time of disposal of the appeal. In support of his contention the learned senior counsel relied the decisions of Smt. Chand Rani(deed) by her L.R's-Vs-Smt. Kamal Rani(deed) by her L.R's reported in 1993(41)(2) BLJR 842.

Mr. Probir Neogi, the learned senior counsel along with Mr. Shah Monjurul Haque, appearing on behalf of the respondents vehemently opposes the appeal. The learned senior counsel submits that the court below after considering the facts and circumstances, materials on record as well as evidence both oral and documentary in two consecutive occasions came to a conclusion that the plaintiff-appellants failed to prove their case to get decree for Specific Performance of Contract and as such the court below in the suit in hand committed no error which requires no interference by this court. The learned senior counsel placed the deed of agreement in question, relevant part of the impugned judgment and decree as well as L.C. Records and submits that it is crystal clear from the reading of the deed of agreement for sale a period was fixed for five months with effect from 2nd September, 2002 to 1st February 2003 and since the plaintiff-appellants failed to get the Kabala by paying the remaining balance the trial court has rightly dismissed the suit by giving proper reasoning. He submits that in the case in hand after expiry of the time the defendants sent a legal notice for performance of the part of the

appellant-plaintiffs but not only they failed to do so but by the subsequent reply dated 23.03.2003 they expressed their inability to arrange the fund which clearly shows there are serious latches and negligence on the part of the plaintiff-appellants to perform and get the Kabala by paying the remaining balance. The learned senior counsel also placed the correspondence and submits that even they sent a legal notice long after requesting the defendants to execute the sale deed by taking the balance consideration within 3(three) days but there was no effort to show their readiness and willingness which clearly shows that the plaintiff-appellants were not in a position to perform their part. The learned senior counsel by placing the reply dated 23.03.2003 but the learned Advocate for the appellants submitted that in the said notice/reply the plaintiff-appellants categorically stated that there are expecting certain fund after selling certain properties which has no specification and are vague in nature and as such they are not entitled to get the property by *dint* of a decree of Specific Performance of Contract. He submits that in the present suit in hand time is the essence of the contract because of the nature of the contract which clearly stipulated a fixed time as much as for an argument sake the learned counsel submits that even if they made an offer for installment but since the same was not accepted expressly or specifically by the plaintiff-appellants there is no case in favour of the plaintiff-appellants to get a decree for Specific Performance of Contract. The learned senior counsel placed the relevant provisions of law and submits

that this is a fit case wherein the court below on proper appreciation of the facts and circumstances and by giving detailed reasoning dismissed the suit and as such the impugned judgment and decree passed by the trial court is liable to be maintained for ends of justice.

We have perused the impugned judgment and decree, Memorandum of appeal, application for additional evidence, counter-affidavit, LC Records, provisions of law, decisions as referred to as well as necessary papers and documents annexed herewith and heard the learned counsels for the contesting parties.

On perusal of the same, it transpires that there was an agreement for sale in between the plaintiff-appellants and defendant Nos. 1 and 2 and their mother for sale of the property in question by fixing Tk. 2,50,00,000/- as consideration money. It further transpires that at the time of execution of the deed of agreement for sale the appellant-plaintiffs paid an amount of Tk. 50,00,000/- by six Pay Orders. After execution of the agreement for deed of sale and after expiry of the period mentioned in the deed of agreement for sale since the defendants failed to perform their function by executing Kabala after taking the consideration amount the appellant-plaintiffs and finding no other alternative filed the suit in hand impleading the respondents as defendants. It further transpires that the trial court proceeded with the suit and framed issues. During trial both the parties adduced evidences both oral and documentary. Subsequently, the trial court after hearing the parties and considering the facts and

circumstances dismissed the suit. The present appellant-plaintiffs being aggrieved by and dissatisfied with the judgment and decree passed by the trial court preferred appeal before this court and this court after hearing the parties and considering the facts and circumstances and L.C. Records allowed the appeal by setting aside the judgment and decree passed by the trial court and sent back the case on remand to the trial court afresh. After receiving the order of this court along with the L.C. Records the trial court proceeded as directed and after following the all provisions of law and procedures the trial court vide the impugned judgment and decree dismissed the suit again resulting which the appellant-plaintiffs pressed the instant appeal before this court. In a suit for Specific Performance of Contract the court of law has to see many aspects from the genuineness of the deed of agreement for sale up to the subsequent conduct, readiness, willingness of the party as well as the other legal aspects.

While dealing with the suit for Specific Performance of Contract the court of law has to apply its judicial mind since the relief is an equitable one and has to consider all aspects. In the present suit in hand the simple case of the plaintiff-appellants, are that, they entered into an agreement for sale by paying partial consideration and since the defendants failed to execute the Kabala by receiving the balance amount they filed the suit. To prove their case the plaintiffs adduced 3(three) witnesses and also adduced documentary evidences. On the other hand the defendants also adduced 3(three) oral evidences as well as documentary

evidences. It appears that the deed of agreement for sale was executed in between the parties on 2nd September, 2002 wherein the plaintiff-appellants paid an amount of Tk. 50,00,000/- and the salient features of the said deed of agreement for sale runs as follows;

এই বায়না পত্র দলিল অদ্য ০২/০৯/২০০২ ইং তারিখ হইতে ০১/০২/২০০৩ ইং তারিখ সয় কাল পর্ন্ত বলবৎ থাকিবে। অর্থাৎ ৫ মাস সময় কাল পর্ন্ত বলবৎ থাকিবে।

প্রকাশ থাকা আবশ্যক যে, অত্র বায়না পত্র দলিলের নির্দিষ্ট সময় সীমার মধ্যে ক্রদি বায়না পত্র দলিল গ্রহিতাগন ক্রদি বায়না টাকা বাদে বক্রী ২,০০,০০,০০০/= (দুই কোটি) টাকা বায়না পত্র দলিল দাতাদ্বয় দাত্রীর বরাবরে প্রদান পূবর্ক দলিল রেজিষ্ট্রারী করিয়া না নেন, তাহা হইলে বায়না কৃত ৫০,০০,০০০/= (পঞ্চাশ লক্ষ) টাকা। বাজেয়াপ্ত বলিয়া গন হইবে।

প্রকাশ থাকা আবশ্যক যে, বায়না পত্র দলিলের নির্দিষ্ট সময় সীমা পার হওয়ার পর ও ক্রদি বায়না পত্র দলিল দাতাদ্বয় ও বায়না পত্র দলিল দাত্রী বায়না টাকা বাদে বক্রী ২,০০,০০,০০০/= (দুই কোটি) টাকা গ্রহন না করিয়া দলিল রেজিষ্ট্রি করিয়া দিতে কোন প্রকার তালবাহানা করেন, তাহা হইলে বায়না পত্র দলিল গ্রহীতাগন বায়না টাকা বাদে বক্রী ২,০০,০০,০০০/= (দুই কোটি) টাকা নির্দিষ্ট আদালতে জমা

দিয়া আদালতের মাধ্যমে দলিল রেজিষ্ট্রারী করিয়া নিতে পারিবেন।

So, it appears from the aforesaid deed of agreement for sale is that a specific date has been fixed to conclude the agreement, namely 01.02.2003 with a consequence wherein it has been stipulated that in the event of failure on the part of the plaintiff-appellants to get the Kabala by paying the remaining portion the part payment will be forfeited. Also there is a provision that if there is any reluctancy on the part of the defendants to execute the sale deed even after expiry of the period the plaintiff-appellants can file the suit to get the Kabala in question. So, it appears from the aforesaid deed of agreement for sale of the property in question that the period is specifically fixed from 02.09.2002 to 01.02.2003 with a provision of forfeiture of the earnest money. The language of the deed of agreement is very much clear and there is no ambiguity regarding the terms and conditions. Admittedly, as per the Limitation Act there is a provision of time frame to file a suit for Specific Performance of Contract but nothing prescribed nor there is any provisions which can extent the period determined by the parties specifically.

It is admitted by both the parties that the deed of agreement for sale was not executed on or before 01.02.2003 but it has been asserted by the plaintiff| in their plaint that during subsistence of the agreement for sale they approached the defendants for execution by taking the remaining

balance but they refused to do so because of the illness of their mother who ultimately died and was substituted.

It transpires from the facts and circumstances that the defendants after expiry of period on 01.02.2003 they issued a Legal Notice on 10.02.2003. After receiving the said Notice in question the plaintiff-appellants gave reply through their lawyer vide notice dated 23.03.2003 which was duly marked as Exhibit-3(ka). While giving deposition the P.W. 1 stated as follows;

> *১০/২/২০০৩ তারিখের লিগ্যাল নোটিশের জবাব আমরা দিয়াছি। জবাব মিঃ আবদুল করিম এডভোকেট আমাদের কথামত লিখাইয়াছে।*
>
> *আমি প্রদঃ ৩(ক) লিগ্যাল নোটিশ স্বীকার করিয়াছি। । ঐ লিগ্যাল নোটিশে চ০ লক্ষ টাকা রেডি আছে মর্মে টাকা আছে। বাকী ১.৫ কোটি টাকা আমাদের অন্য সম্পত্তি বিক্রি করিয়া দেওয়া হইবে মর্মে লেখা আছে।*

So, it appears while deposing before the court of law the P.W. 1 admitted and proved the content of the Legal Notice. On meticulous perusal of the said Legal Notice the plaintiff-appellants through their lawyer stated that:

> *সঠিক সময় ঐ খান হইতে টাকা না পাওয়ার দরুন আপনার মোয়াক্কেলের সহিত সময় বক্রী ২,০০,০০,০০০/= (দুই কোটি) টাকা প্রদান পূর্বক দলিল রেজিষ্ট্রি করিয়া নিতে পারেন নাই।*

The further reply runs as follows;

তাই আমি আমার মোয়াক্কেলের পক্ষ হইতে আপনাকে জানাইতেছি যে, যদি আপনার মোয়াক্কেলগণ কিস্তিতে টাকা নিতে রাজী থাকেন তাহা হইলে আমার মোয়াক্কেলগণ বর্তমানে আরো ৫০,০০,০০০/= (পঞ্চাশ লক্ষ) টাকা প্রদান করিতে প্রস্তুত আছেন। তাহা নোটিশের মাধ্যমে জানাইয়া দিবেন।

Subsequently, it appears from the evidence that there are further communications in between the parties through their lawyer. It also appears from the Exhibit-3(kha) a Legal Notice on behalf of the defendants wherein it has been stated as follows;

অতপর আপনার মোয়াক্কেলদিগকে জানানো যাইতেছে যে, তাহারা যদি কিস্তিতে আমার মোয়াক্কেলগণের প্রাপ্য বক্রী অর্থ কিস্তিতে পরিশোধ করিতে চাহেন তাহা হইলে অর্থ পরিশোধের তারিখ সুনির্দিষ্ট করিয়া সর্বোচ্চ তিনটি মাসিক কিস্তি অবলম্বন করিতে পারেন এই শর্তে যে, অপরিশোধিত অর্থের জন্য বায়নার সর্বশেষ মেয়াদ হইতে শুরু করিয়া প্রতি মাসে শতকরা এক ভাগ হারে ক্ষতিপূরণ প্রদান করিবেন। আপনার মোয়াক্কেলগণ ইহাতে রাজি খুশি থাকিলে এই নোটিশের তারিখ হইতে ৭ দিনের মধ্যে আমার মোয়াক্কেলগণের সহিত লিখিত চুক্তি সম্পাদন করিবেন

অন্যথায় বায়নার অর্থ বাজেয়াপ্ত বলিয়া গণ্য হইবে এবং আমার মোয়াক্কেলগণ তাহাদের সংশ্লিষ্ট সম্পত্তিটিতে পুণরায় বসবাস অথবা তাহা অন্যত্র বিক্রয় অথবা ভাড়া দেওয়ার উদ্যোগ গ্রহন করিবেন।

Subsequently, on perusal of the evidence, it appears that regarding the effort made by the defendants in Exhibit-3(kha) no steps were taken and the defendants by their subsequent notices terminated the contract.

It has been mentioned earlier that in the plaint it has been specifically asserted by the plaintiffs that the defendants refused to execute the deed by taking the consideration. But it appears that one week after expiry of the specific time as stipulated in the deed of agreement the defendants issued a Legal Notice which was replied by Exhibit-3(ka). On meticulous reading of the Exhibit-3(ka), it transpires that the plaintiffs stated that they are not in a position to pay the balance amount until and unless they get the amount from sale of the other properties. In the said notice it has been specifically stated that they are ready to pay Tk. 50,00,000/- out of the balance of Tk. 2,00,00,000/-. It further transpires from the subsequent notice in the month of April that the defendants referring certain meetings and conciliation made an offer of the payment of the balance amount by three installments. But on perusal of the evidence, it transpires that the same was not replied by the plaintiff-appellants and the last communication was made by the defendants was in the month of May, 2003. So, on meticulous perusal of the aforesaid facts

and circumstances, it transpires that there was a specific date for expiry of the contract was given with a consequence of the forfeiture of the partial payment. In a suit for Specific Performance of Contract a parties seeking a decree of Specific Performance of Contract has to show the readiness and willingness to perform their part of the contract. In the present suit in hand the plaintiff-appellants who were the proposed buyer and party to the deed of agreement for sale as to show their readiness and willingness to perform their part of the contract. It has been mentioned earlier regarding the nature of the contract that the same is a specific one by giving specific date of expiry of the contract with a consequence and there is no ambiguity in the same in any manner. However, when there was no execution either within the time frame or beyond that a party who is seeking enforcement of a contract must show their readiness willingness etc. In the plaint it has been stated by the plaintiffs that during subsistence of the agreement they took attempt to get the Kabala. But ultimately from the evidence, namely Exhibit-3(ka) it clearly transpires that the plaintiff-appellants were not in a position to make the payment at the relevant time, namely on 23.03.2003. It has been clearly asserted in the said Legal Notice which was duly affirmed and proved by the P.W. 1 in his depositions that they are awaiting funds from the sale of property for which they have already entered into agreement for sale it means there is no specific promise or date for perform their part. In the said evidence it has been further stated by the appellant-plaintiffs that they are ready to

pay Tk. 50,00,000/- out of the balance amount. But there was no further promise of any specification regarding the rest payment. It further transpires from the correspondences, namely Exhibit-3(kha) that the defendants made an offer to make the payment in three installments but since there were no acceptances in an expressed way the offer has no force of law and not affect the terms and condition of the deed of agreement for sale.

It appears that the deed of agreement was expired on 01.02.2003 but after that there was no evidence to show that the defendant vendor by any expressed wording extended the period of the deed of agreement for sale or made any promise or there was any payment in any manner.

Admittedly, the plaintiff-appellants wants to adduce certain papers and documents showing sufficient fund in their account but the same was not produced though they have given chance in two occasions before the trial court as much as the clear narration and position was expressed in Exhibit-3(ka) which was duly affirmed by the plaintiffs while deposing before the court of law. As per the P.W. 1 the said contents was written as their instruction and they accepted the contents of the letter dated 23.03.2003. On perusal of the agreement for sale in question, it clearly transpires that the same is very much specific with consequence. The agreement is a Munich one wherein a specific date has been given for expiry of the contract in question, namely 01.02.2003 with a specific consequence and the nature of the contract itself says the same is an

absolute one and automatically expired after expiry of the period and the advance is liable to be forfeited and as such it cannot be said that time is not the essence of the contract in hand.

Admittedly, the earlier suit was dismissed on 28th August, 2007 and decree was drawn on 3rd September, 2007 against the judgment and decree passed by the trial court the present appellant-plaintiffs pressed appeal before this court on 31.12.2007 being First Appeal No. 4 of 2008. It appears that the added defendant Nos. 6 and 7 who are the subsequent purchasers contesting the suit as bonafide purchasers and they purchased the suit property on 11th September, 2007 got possession, mutated their names by paying tax and other charges and enjoying the possession. The chronologies and facts shows that there is nothing irregular nor any attempt intentionally or collusively to frustrate the right of the plaintiff-appellants of the suit in hand and the question of lispendence shall follow as per law.

It has been mentioned earlier that in a suit for Specific Performance of Contract the court of law has to see all aspects including the nature and character of the agreement in question and the subsequent conduct of the parties to perform their respective part. In the case as referred by the learned counsel for the appellants the Supreme Court of India while disposing of the appeal discussed two questions, namely (a) whether time is the essence of the contract and (b) whether the plaintiffs were ready and willing to perform the contract and their lordships subsequently relied

upon the subsequent correspondences and notices exchange in between the parties came to a conclusion that the respective plaintiffs of that suit was never willing to make payment nor ready to perform their part and though the case has been cited by the appellant-plaintiffs but it goes in favour of the defendants in the present suit in hand because the correspondences duly proved before the court of law clearly shows that the plaintiff-appellants were not ready and willing to perform their contract by their own wordings in the different notices.

Considering the facts and circumstances, provisions of law and the decisions as referred to we are of the view that the court below in the present case in hand committed no error which requires interference by this court. Accordingly, the appeal is dismissed and the judgment and decree passed by the trial is hereby affirmed.

Send down the lower courts record with a copy of the judgment to the concerned court below, at once.

(Mamnoon Rahman,J:)

I agree.

(Md. Atoar Rahman,J:)

Emdad. B.O.