

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. S.M. Iftekhar Uddin Mahamud

First Miscellaneous Appeal No. 328 of 2008

In the Matter of:

Mahfuzur Rahman

.....Plaintiff-appellants.

-Versus-

Government of the People's Republic of
 Bangladesh represented by the Deputy
 Commissioner, Dhaka and others

....Defendant-respondents.

No one appears

..... For the plaintiff-appellants.

Mr. A.K.M. Rezaul Karim Khandaker, D.A.G
 Mr. Md. Manowarul Islam, A.A.G with
 Mr. Papia Sultana, A.A.G with
 Mr. Mokhlesur Rahman, A.A.G.

.....For the Govt. respondents.

Judgment on 16.02.2026.

Sheikh Abdul Awal, J:

This First Miscellaneous Appeal is directed against the order dated 18.08.2008 passed by the learned Joint District Judge, 3rd Court, Dhaka in Title Suit No. 166 of 2004 rejecting an application for injunction restraining the defendant –respondent No.2 from leasing out the suit property as described in the schedule of the plaint.

The facts of the case, in brief, are that the appellant as plaintiff filed Title Suit No. 166 of 2004 in the Court of learned Joint District Judge, 3rd Court, Dhaka for declaration of Title in the suit land and also for further declaration that V.P. Case No. 55

of 1971 is collusive, fraudulent, without jurisdiction and not binding upon the plaintiff. After institution of the suit plaintiff filed an application under Order 39, Rule 1 and 2 read with section 151 of the Code of the Civil Procedure for temporary injunction restraining the defendant No. 2 from leasing out the suit property to third party.

The learned Joint District Judge after hearing both the parties by the impugned order dated 18.08.2008 rejected the application for temporary injunction on the finding that the respondent No. 2 acquired the suit property as an abundant property and there is nothing on record to suggest that the suit property was recorded in the name of the plaintiff or predecessor of the plaintiff at any point of time and that the prima-facie case and balance of convenience and inconvenient is not in favour of the plaintiff.

No one appears to press the Appeal on repeated calls.

In view of the fact that this petty old First Miscellaneous Appeal arising out of an ad interim order, we are inclined to dispose of it on merit perusing the available materials on record.

On scrutiny of the record, it appears that the suit property was vested in the Government by way of V.P case No. 55 of 1971. It further appears that the respondent No.2 having leased out the property to third parties namely, Mofazzal Hossein, Mohammad Ali, Mazahar Uddin, Danesh Mia and Shamsul Haque. In a case of this nature, we find nothing on record to show that the plaintiff side has been possessed the suit land.

Mr. A.K.M. Rezaul Karim Khandaker, the learned Deputy Attorney General submits that over the self same property another

set of plaintiffs finally became unsuccessful in Civil Revision No. 151 of 1990 before this Court.

Considering all the aspects of the case as revealed from the materials on record, we find no flaw in the impugned order. The impugned order appears to be well founded in law and facts. No interference, is therefore, called for.

In the result, the First Miscellaneous Appeal is dismissed without any order as to costs. The impugned order dated 18.08.2008 is hereby maintained. The connected Rule being No. 492(F.M.) of 2008 has already been disposed of long before.

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

S.M. Iftekhar Uddin Mahamud, J:

I agree.