

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

Civil Revision No. 105 of 2024

In the matter of:

Md. Shafiqul Islam
...Petitioner.

-Vs-

Present
Mr. Justice Mamnoon Rahman

Md. Rafiqul Islam and others.
....Opposite parties.

Mr. Shahjada Al Amin Kabir, Adv.
...For the petitioner.
Mr. Mohammad Ali Akkas Chowdhury, Adv.
...For the opposite parties.

Heard on: **13.02.2025**

And Judgment on: **The 20th February, 2025**

In an application under section 115(4) of the Code of Civil Procedure, 1908 rule was issued calling upon the opposite parties to show cause as to why the impugned judgment and order dated 19.10.2023 passed by the learned District Judge, Patuakhali in Civil Revision No. 44 of 2023 arising out of Title Suit No. 115 of 2022 allowing the revision and reversing the order of stay dated 03.08.2023 upon the operation of the *ex parte* decree passed in Title Suit No. 33 of 2014 by the leaner Joint District Judge, 2nd Court, Patuakhali, should not be set aside and/or pass such other or further order or orders as to this court may seem fit and proper.

I have heard the learned Advocates for the petitioner as well as opposite parties. I have perused the impugned judgment and order passed by both the courts below, revisional application, ground taken thereon as well as necessary papers and documents annexed herewith.

On perusal of the same, it transpires that admittedly a suit is pending being Title Suit No. 115 of 2022 in the court of Joint District Judge, 2nd Court, Patuakhali wherein the present plaintiff challenges the legality and propriety of a decree passed in a earlier suit. It further transpires that after filing of the suit the present plaintiff-petitioner pressed an application for stay of the execution case arising out of the decree passed in the suit under challenged. It also transpires that the trial court allowed the same but the revisional court set aside the order passed by the trial court regarding staying the operation of the ex-parte decree.

The learned Advocates for the parties submits that for ends of justice a restraintment order can be passed for a limited period enabling the parties to settle the present suit expeditiously, as possible.

It is also the view of our apex court that in such circumstances the court of law should grant stay for a limited period to avoid multiplicity of proceeding. Considering the facts and circumstances, the trial court is directed to hear and dispose of the suit expeditiously, as possible not later than 6(six) months from the date of receipt of the instant order without fail.

In the meantime, the parties are directed to maintain status-quo in respect of transfer of the suit property till disposal of the suit by the court below.

The learned Advocate for the opposite parties raises the question of law by referring the Civil Courts (Amendment) Act, 2021, namely the Act 5 of 2021 as per section 2 of the said Act 5 of 2021. The

jurisdiction of the Senior Assistant Judge shall extend to all suits of which the value does not exceed 25,00,000/- and the Assistant Judge for Tk. 15,00,000/-respectively. As per section 19(2) the learned District Judge shall also take necessary step to transfer any such case to the appropriate court from the date of enforcement of the Civil Courts (Amendment) Act, 2021 which means from 1st February, 2021. On perusal of the papers and documents, it transpires that the suit was filed in year 2022 before the Joint District Judge, Patuakhali but the valuation has been shown as Tk. 12,34,000/- as such the same is travelled by Assistant Judge as per the provisions of 19(1) of the Act 5 of 2021.

In such circumstances, the Joint District Judge, Patuakhali is directed to place the matter before the District Judge, Patuakhali forthwith enabling the District Judge, Patuakhali to take necessary steps as per the provisions of section 19(2) of the Civil Courts (Amendment) Act, 2021.

With this observation and direction the instant rule is disposed of.

The office is directed to communicate the order to the concerned court below with a copy of the judgment, at once.

(Mamnoon Rahman,J:)