

Present:  
Mr. Justice Sheikh Abdul Awal  
and  
Mr. Justice Md. Mansur Alam

First Miscellaneous Appeal No. 101 of 2009

**In the matter of:**

Memorandum of appeal against original order.

-and-

**In the matter of:**

Ali Hossain Shikder @ Md. Ali Hossain Shikder  
and others

...Plaintiff-appellants

-versus-

Nazrul Islam and others

...Defendant-respondents

No one appears

.... for the appellants

Mr. Md. Yousuf Ali, D.A.G with  
Ms. Israt Jahan, A. A.G. with  
Mr. Md. Siddik Ali, A.A.G. and  
Ms. Sabina Yeasmin Nira, A.A.G.

... for the respondents

Heard and judgment on: 26.05.2025

**Md. Mansur Alam, J:**

This first miscellaneous appeal is directed against the order dated 25.02.2009 passed by the learned Joint District Judge, 2<sup>nd</sup> Court, Narayangonj in Title Suit No. 684 of 2008.

The facts relevant for disposal of this appeal is that the plaintiff appellant brought the aforesaid title suit for simple declaration of title over the suit land. During pendency of the suit the plaintiff-appellants filed an application for an order of injunction under 39 rule 1 read with section 151 of the Code of Civil Procedure. Thereafter, the trial judge vide order dated 06.01.2009 issued show cause notice upon the defendants as to why the defendants will not be debarred by a temporary injunction

from dispossessing the plaintiff from the suit land and learned joint district judge passed a status quo order against the defendant on the same day in respect of suit land.

Thereafter the defendant appellant on 27.01.2009 filed an application under order 39 rule 4 read with section 151 C P C with a prayer for vacating the status quo order granted on 06.01.09 on the ground that they were kept unaware about the injunction petition and show cause notice. The process server obtained signature on both the notices for original suit and for the injunction petition but he did not serve the defendant appellant the show cause notice issued for injunction petition. This is why the defendant appellant were ignorant about the impugned status quo order which causes irreparable loss to the defendant appellant. On the application of defendant appellant learned Joint District Judge vacated the impugned status quo order on 25.02.2009 as the same is issued without being heard the defendant appellant.

No one is appeared on the part of plaintiff appellant.

Mr. Md. Yousuf Ali, learned Deputy Attorney General argued before us that since the suit is an old one of 2009 and no one is appeared before the court for long years of time, so there is no any reason to keep the suit alive any longer. He opines to send the case for necessary subsequent steps keeping the impugned order as it prevails now.

In view of the discussion made as above, we are constraint to hold the view that the impugned order of vacating the status quo is quite

reasonable in this stage and this order will cause no harm to both the parties. So the impugned order is not liable to be interfered with.

In view of the above observation by now it is clear that this miscellaneous appeal fails.

As a result, the first miscellaneous appeal is dismissed.

The impugned order of vacating the status quo dated on 25.02.09 is upheld.

Communicate the judgment and order to the concerned court below at once.

Sheikh Abdul Awal, J.

I agree