

**In the Supreme Court of Bangladesh  
High Court Division  
(Civil Revisional Jurisdiction)**

Present:

Mr. Justice Md. Riaz Uddin Khan

**Civil Revision No. 5382 of 2024**

**IN THE MATTER OF :**

An application under section 115(4) of the Code of Civil Procedure, 1908

-And-

In the Matter of:

**Habibur Rahman Mollik**

...Defendant-petitioner

Versus

**Fakir Mollik and others**

...Plaintiff-Opposite parties

Mr. Md. Faruk Hossain, with

Mr. Md. Mansur Rahman Sarkar, Advocates

.... Defendant-petitioner

Mr. Delwar Hossain, Advocate

.... For the opposite party No. 1 and 2

**Heard and Judgment on: 01.12.2025**

**Md. Riaz Uddin Khan, J:**

Rule was issued calling upon the opposite parties by granting leave under section 115(4) of the Code of Civil Procedure to show cause as to why the Judgment and Order dated 23.06.2024 passed by the Additional District Judge, 1<sup>st</sup> Court, Chuadanga in Civil Revision No. 11 of 2023 rejecting the revisional application on the ground of non appearance of the applicant/petitioner and thereby affirming the judgment and order dated 29.05.2023 passed by the Assistant Judge, Jibonnagar, Chuadanga in Other Class Suit No. 66 of 2022 dismissing the application filed by the defendant-petitioner should not be set aside and or such other or further order or orders should not be passed as to this Court may deem fit and appropriate.

At the time of issuance of Rule this Court was pleased to stay operation of the Civil Suit No. 66 of 2022 pending in the Court of Assistant Judge, Jibonnagr, Chuadanga initially for a period of 04(four) months which was extended time to time.

The opposite party Nos. 1 and 2 being plaintiffs filed the instant Title Suit No. 66 of 2022 before the Court of Assistant Judge, Jibonnagar, Chuadanga on 23.06.2022 against the present defendant-petitioner along with others for cancelling a registered deed being No. 919 dated 13.03.2024.

At one stage of the suit the defendant-petitioner filed an application before the learned Assistant Judge, on 24.04.2023 for direction of appearance of the plaintiff No. 1 before the Court with his National Identity Card mentioning that the plaintiff No. 1 is a foreign citizen namely India. The learned Assistant Judge on that day, that is, on 24.04.2023 took up the application for hearing and after hearing both the parties was pleased to reject the application by his order dated 29.05.2023. Against the said order the defendant-petitioner filed Civil Revision No. 11 of 2023 before the learned District Judge, Chuadanga which was ultimately heard by the Additional District Judge, 1<sup>st</sup> Court, Chuadanga who after hearing by the impugned order dated 23.06.2024 rejected the revision on the ground of non-appearance of the petitioner and thereby affirmed the order passed by the trial court.

Mr. Md. Mansur Rahman Sarkar, the learned advocate appearing for the petitioner submits that since the plaintiff No.1 Fakir Mollick is an Indian citizen and he has no *locus-standi* to prefer the instant suit in

the Court of Bangladesh. He submits that the courts below failed to consider that according to section 83(2) of the Code of Civil Procedure no alien enemy residing in Bangladesh without permission of the government, or residing in a foreign country, shall sue in any Courts of Bangladesh. Quoting the above section the learned advocate submits that the plaintiff no.1 being a citizen of India has no *locus-standi* to file the instant suit without the permission from the Government.

Per-contra Mr. Delwar Hossain, the learned advocate appearing for the plaintiff-opposite parties submits that in the record it is evident that the plaintiffs and the defendants are full brothers and they all are citizens of Bangladesh. However, he submits that even if the plaintiff is not a citizen of Bangladesh rather a citizen of India he has every right to sue in Bangladesh according to section 83 of the Code of Civil Procedure.

I have heard the learned advocates for both the parties, perused the application along with the orders passed by both the courts below.

It appears from the record namely the plaint that the plaintiffs and the defendants are full brothers and this fact has not been denied by the defendant-petitioner. However, for the sake of argument even if it is conceded that the plaintiff No.1 is now permanently residing in India even then his right to sue does not extinguished or prevented by any law. Section 83 of the Code of Civil Procedure is the relevant law in this connection which runs as follows:-

“83.(1) Alien enemies residing in Bangladesh with the permission of the Government, and alien friends, may sue in

the Courts in Bangladesh, as if they were citizens of Bangladesh.

(2) No alien enemy residing in Bangladesh without such permission, or residing in a foreign country, shall sue in any of such courts.”

**Explanation.-** Every person residing in a foreign country the Government of which is at war with, or engaged in military operations against, Bangladesh, and carrying on business in that country without a license in that behalf under the hand of a Secretary of the Government shall, for the purpose of sub-section (2), be deemed to be an alien enemy residing in a foreign country.

From plain reading of the above section it is crystal clear that alien friends may sue in the courts of Bangladesh as if they are citizen of Bangladesh. The bar is only for the alien enemies. It is well established that court can take its judicial notice that whether Bangladesh is at war with any country at the relevant time. It is well established that after 1971 Bangladesh never engaged itself in war with any country of the world. Hence after 1971 till today Bangladesh has no enemy alien. Though it is apparent on the face of the record that the plaintiff No. 1 is the full brother of the defendant-petitioner and in the plaint the addresses of the plaintiff and the defendant are same. However, for the sake of argument if it is conceded that the plaintiff No. 1 is a citizen of India, even then his right to sue is very much in existence. Hence, the decision passed by the courts below having no error of law resulting no error of decision and as such occurred no failure of justice. I do not find any cogent reason to interfere with the impugned orders passed by the courts below. In such

view of the matter the instant Rule being devoid of merits destined to fail.

In the result, the Rule is **discharged**.

The order of stay passed earlier by this Court stands vacated. The Trial court is directed to dispose of the suit as early as practicable.

Communicate the judgment and order at once.