

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

Present:

Mr. Justice A.F.M. Saiful Karim

CIVIL REVISION NO. 1866 OF 2022.

IN THE MATTER OF :

Mohammad Hossen.

..... Petitioner

-Versus-

Kazi Md. Abu Omar and others

..... Opposite-parties

Mr. Md. Abdul Kader Bhuiyan, Advocate with

Mr. Muhammad Sheikh Sadi, Advocate

.....For the petitioner

None appears

.....For the opposite-parties

Heard and Judgment on 19th February 2026.

A.F.M. Saiful Karim, J:

On an application under Section 115(1) of the Code of Civil Procedure, the instant Rule was issued in the following terms:

“Let a Rule be issued calling upon the opposite parties No.1-3 to show cause as to why the Impugned Judgment and order dated 03.03.2020 passed by the District Judge, Chandpur in Misc. Appeal No.39 of 2018 dismissing the appeal affirming the order dated 07.06.2018 passed by the Assistant Judge, Shahrasti, in Title Suit No.43 of

2018, allowing the application for Temporary Injunction restraining the petitioner to enter into the suit land under Order 39 Rule 01 and 151 of the Code of Civil Procedure and rejecting the application filed by the petitioner under order 39 Rule 01 and 151 of the code of Civil Procedure for Temporary injunction against the plaintiffs to forcefully enter into the Suit land should not be set aside and/or such other or further order or orders passed as to this Court may seem fit and proper.”

Facts relevant for disposal of this Rule, in short, are that the Opposite-Parties No. 01-03 as plaintiffs filed Title Suit No. 43 of 2018 on 12.03.2018 in the Court of Senior Assistant Judge, Shahrasti, Chandpur against the Petitioner and Opposite-Parties No. 04-20 impleading them as defendants praying for decree for correction of the Deed No. 2568 dated 28.04.1988, Deed No. 3038 dated 13.07.1995, Deed No. 3783 dated 04.08.1997, Deed No. 4780 dated 13.10.1997 and Deed No. 5194 dated 05.11.2002.

The plaintiff's case, in short, is that one Abdus Salam was owner of total 2.29 acres land of C.S Khatian No. 05 of

234 No. Rara Mouza. His name was duly recorded in S.A Khatian No. 5 as well. He died leaving behind 02 sons Dalilur Rahman (the predecessor of defendants No. 01-07) and defendant No. 08, Mohammad Hossen. Dalilur Rahman and Mohammad Hossen sold 29 decimal land of previous Plot No. 120, present Plot Nos. 196 and 192, 09 decimal land of previous Plot No. 123, present Plot No. 192 in total 38 decimal out of said 2.29 acres of land to the predecessors of the plaintiffs vide registered sale deed No. 2568 dated 28.04.1988. The deed writer wrongly mentioned only Plot No. 196 instead of "Plot No. 120, present Plot Nos. 196 and 192" in the 1st chohoddi (boundary) of the said deed and in the 2nd Chohoddi of the said deed the deed writer wrongly mentioned only present Plot No. 191 instead of "present Plot No. 192" and in Deed No. 3038 dated 13.07.1995, Deed No. 3783 dated 04.08.1997, Deed No. 4780 dated 13.10.1997 and Deed No. 5194 dated 05.11.2002 similar mistakes were also committed by the deed writer; though Plot No. 192 was not included in those deeds but the predecessors of the plaintiffs got possession of the land of Plot No. 192; subsequently amalgamating the lands of all the aforesaid deeds the plaintiffs

developed the land and had been possessing the same by constructing building in some portion and started living making graveyard in some portion, erecting tin made house in some portion and planting trees in some portion, erecting boundary wall in 03 sides; recently before 4/5 months while they were making boundary wall in rest side, on 7th day of construction work some greedy persons raised objection claiming ownership of land in present plot No. 192, then the plaintiffs perusing the aforesaid deeds learned about the aforesaid mistakes in the deeds and told the defendants No. 01-08 and other defendants to give deed of correction but they took dilatory tactics not to do so; therefore the Plaintiffs filed the instant suit praying for decree for correction of the aforesaid deeds. On 28.03.2018 the plaintiffs also filed an application under order 39 Rule 1 of the Code of Civil Procedure praying for temporary injunction against defendant No. 08 not to enter forcefully in .08 acres land of previous Plot No. 120, present Plot No. 192 and not to create disturbance in constructing the boundary wall thereon.

The present petitioner i.e defendant No. 08 submitted written statement denying the material facts of the plaint. The

case of the defendant, in short, is that the defendant No. 08 never sold the land of plot No. 192 to the plaintiffs or to their predecessor, rather, he sold the land of Plot No. 192 to the added defendant No. 19 who was appointed as attorney on his behalf to take steps for contesting the suit and thus he prayed for dismissal of the suit. He submitted written objection on 05.04.2018 against the application under order 39 Rule 01 of the Code of Civil Procedure and later, on 24.04.2018, he also submitted an application under order 39 Rule 01 of the Code of Civil Procedure praying for temporary injunction against the plaintiffs not to enter forcefully in entire 31 acres land of previous plot No. 120, present plot No. 192.

After hearing the parties the learned Court of Assistant Judge, Shahrasti, Chandpur allowed the application for temporary injunction filed by the plaintiffs and rejected the application for temporary injunction filed by the defendant No. 08 vide order dated 07.06.2018.

Against the said order dated 07.06.2018 defendant No. 08 as appellant filed Miscellaneous Appeal No. 39 of 2018 in the Court of District Judge, Chandpur, who after hearing the parties disallowed the said Appeal vide judgment and order

dated 03.03.2020 affirming the order dated 07.06.2018 passed by the learned Court of Assistant Judge, Shahrasti, Chandpur passed in Title Suit No. 43 of 2018.

Being aggrieved by and dissatisfied with aforesaid judgment and order dated 03.03.2020 passed by the learned District Judge, Chandpur in Miscellaneous Appeal No. 39 of 2018 the petitioner preferred this Revisional application and obtained Rule only.

At the very outset, Mr. Md. Abdul Kader Bhuiyan, learned Advocate appearing for the petitioner, submits that admittedly the land of Plot No. 192 is 0.31 acres, which is recorded in the B.S Khatian with the name of the petitioner-defendant on the other hand the plaintiffs filed application for temporary injunction for only .08 acres of land out of said 31 acres of land.

He also submits that both the courts below allowed the temporary injunction in said .08 acres of land out of said 0.31 acres of land illegally without considering the facts that in the disputed deed. No. 2568 dated 28.04.1988 boundary or demarcation of said .08 decimal land is not mentioned and the land is ejmali land and without any specific demarcation there

is no legal scope of injunction in any part of ejmali land in the eye of law and as such the impugned order dated 07.06.2018 passed by the learned Court of Assistant Judge, Shahrasti, Chandpur in Title Suit No. 43 of 2018 is liable to be set aside.

He next submits that the present petitioner did not sale the said .08 acre of land to the plaintiff's vender and therefore the plaintiff's vender as well as the plaintiffs did not get possession over the suit land but both the courts below failed to appreciate these aspects of the case.

He lastly submits that the learned Assistant Judge, Shahrasti also observed in the impugned order dated 07.06.2018 that "চনং বিবাদীপক্ষের দাখিলকৃত ৪১৪নং বি.এস. খতিয়ানদৃষ্টে ২৫৬৮ নং দলিল দাতা মোহাম্মদ হোসেনের নামে হাল ১৯২ দাগে (চনং বিবাদীপক্ষ তাদের লিখিত জবাব ও অস্থায়ী নিষেধাজ্ঞার দরখাস্তে দাবী করে প্রিন্টিং মিসটেকের কারণে এতদস্থলে ২৯২ দাগ লিপি হয়েছে) মোঃ .৩১ একর ভূমি রেকর্ডকৃত আছে বলে পরিলক্ষিত হয়। সুতারাং, দরখাস্তের তফসিলকৃত হাল ১৯২ দাগে সম্যক .৩১ একর ভূমিতে চনং বিবাদীর মালিকানা থাকার বিষয়টি আপাতদৃষ্টে সন্দেহহীন বলে প্রতীয়মান হয় না। ফলে, বিবেচ্য বিষয়সমূহ চনং বিবাদীপক্ষের প্রতিকূলে নিষ্পত্তি করা গেলো।" which is absolutely self-contradictory and in spite of that the Court of Appeal below affirmed the aforesaid order passed by

the trial court below and as such the impugned judgment and order dated 03.03.2020 passed by the learned Court of District Judge, Chandpur in Other Appeal No. 39 of 2018 is liable to be set aside.

No one appears for the Opposite-Parties to contest the Rule.

It appears from the record that at the time of issuance of the rule this court did not grant any interim order as prayed by the present petitioner.

It is to be noted here that in the application for temporary injunction filed the Plaintiffs-Opposite-Parties, the following prayer has been made:-

“অতএব, বর্ণিত অবস্থা ও কারণাধীনে ৮নং বিবাদী যাহাতে বাদীগণের মালিকীয় দখলীয় তপসিল বর্ণিত ভূমিতে জোরে জব্বরে প্রবেশ করিতে না পারে এবং বাদীর শান্তিপূর্ণ ভোগ দখলে কোন বিঘ্ন সৃষ্টি না করে এবং বাদীগণের মালিকীয় দক্ষিণ চৌহদ্দিতে বাউন্ডারি ওয়াল নির্মাণে কোন বাধা প্রদান না করে তৎমর্মে এক অস্থায়ী নিষেধাজ্ঞা/অন্তবর্তীকালীন আদেশ দানে হুজুরের মর্জি হয়।”

Thus, the interim temporary injunction granted on 07.06.2018 in favour of the plaintiffs by the trial court below still is in operation.

It appears that from the application under Order 39 Rules 1 and 151 filed by the present Opposite-Parties No. 1-3 that the cause of action of the injunction application filed by the Plaintiffs-Opposite-Parties has arisen when the present petitioner i.e defendant No. 08 obstructed the present opposite-parties Nos. 1-3 from constructing a boundary wall for possessing .08 decimal of land which they have purchased. Admittedly, the suit land of .08 decimal of land of present of Plot No. 192 is situated inside the land of old Plot No. 120.

I find that both the court below while allowing the injunction application of the plaintiff as well as disallowing the appeal of the present petitioner properly considered the fact that the plaintiffs had been possessing the suit land by way of purchase through registered plot deed No. 2568 dated 28.04.1988 wherein old plot No. 120 was mentioned and admittedly the said plot has been subsequently splitted into present plot Nos. 196 and 192 and lawfully took the view that since the plaintiffs' suit is for correction of the deed No. 2568 dated 28.04.1988 and subsequent deeds for inclusion of the present plot number and the plaintiffs had been possessing .08

decimal of land of plot No. 120(old), the plaintiffs had *prima facie* case for temporary injunction.

During hearing the learned Advocate of the present petitioner verbally submits that he got information from his client that the original suit is still pending for disposal and he prays for disposal of the Rule with a direction upon the trial court below to conclude the trial of the suit expeditiously as the suit is filed in 2018. He also prays for an order of status-quo in respect of the suit land as remain after the order of temporary injunction granted in favour of the plaintiff till disposal of the suit.

It is pertinent to note here that there had been a delay of 688 days in filing the revisional application which was condoned subject to any just objection raised by the opposite-parties at the time of disposal of the Rule. No one appears to raise any objection as to condonation of delay and thus the delay is hereby condoned.

Considering the facts and circumstances of the case as mentioned above, I am of the view that there is nothing in the impugned judgment and order to be interfered. I am also of the view that justice would be served if the trial court is

directed to conclude the trial of the Suit No. 43 of 2018 expeditiously.

Thus, the rule is disposed of and the Trial Court below is hereby directed to conclude the trial of the Suit No. 43 of 2018 preferably within 06(six) months from the date of receipt of the judgment.

However, the parties are directed to maintain Status-quo in respect of only the possession of the disputed .08 decimal of land of present plot No. 192 (old plot No. 120) and the boundary wall thereof as remain now in light of the temporary injunction order granted by the trial court below till disposal of the suit.

Accordingly, the Rule is disposed of, however, without any order as to costs.

Communicate a copy of the judgment to the concerned court below at once.

(A.F.M. Saiful Karim, J)