

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

Present:

Mr. Justice Md. Badruzzaman.

And

Mr. Justice Sashanka Shekhar Sarkar

Civil Revision No. 4251 of 2011.

With

Civil Rule No. 45 (Vio)(R) of 2023

Engineer M. Nasrul Hoq (Nusrum)

...Petitioner.

-Versus-

**Eac Industrial Ingredients (Bangladesh) Limited
and others**

....Opposite parties.

None appears

... For the petitioner

None appears

... For the opposite parties

Heard and judgment on: 30.04.2024.

Md. Badruzzaman, J:

This Rule was issued calling upon the opposite parties to show cause as to why judgment and order dated 23.10.2011 passed by learned Joint District Judge, Chattogram in Other Suit No. 423 of 2011 should not be set aside.

At the time of issuance of Rule this Court vide order dated 02.11.2011 directed the parties to maintain *status quo* in respect of possession and position of the suit land for a period of 06(six) months which was subsequently extended till disposal of the Rule.

Facts, relevant for the purpose of disposal of these Rules are that the petitioner as plaintiff instituted Other Suit No. 423 of 2011 in 1st Court of Joint District Judge, Chattogram for a decree of declaration and cancellation of Power of Attorney. At the day of filing of the suit on

23.10.2011 the plaintiff-petitioner filed an application under Order 39 rule 1 and 2 read with section 151 of the Code of Civil Procedure praying for injunction staying further proceeding of impugned Power of Attorney and the trial Court upon hearing, vide order dated 23.10.2011 directed the defendants show cause within 15 days as to why temporary injunction should not be granted as prayed for by the plaintiff.

Challenging said order of show cause, the plaintiff has preferred this application under section 115(1) of the Code of Civil Procedure and obtained the instant Rule and order of *status quo*.

During pendency of this Rule the petitioner filed an application under Order 39 rule 2(3)(4) for drawing up proceeding against the opposite parties for violation of the order dated 02.11.2011 passed in the revision and a Division Bench of this Court vide order dated 10.09.2023 issued Rule calling upon the opposite party to show cause as to why violation proceedings should not be drawn up against them.

None appears for the petitioner in both Rules when the matter is taken up for hearing.

However, we have perused the impugned order and other materials available on record. It appears that the trial Court after considering the application for injunction issued show cause notice against the defendant-opposite parties and before showing any cause, the plaintiff has challenged the order in this revision.

We have perused the grounds taken in this revisional application from which it appears that the petitioner could not make out a case that the trial Court committed any illegality in issuing show cause notice and there is nothing to be aggrieved by the plaintiff and accordingly, the application is misconceived one.

In that view of the matter we find no merit in this Rule.

In the result, the rule is discharged, however without any order as to cost.

The order of *status quo* granted earlier is hereby vacated.

Consequently, the Civil Rule No. 45 (Vio) (R) of 2023 is discharged.

The trial Court is directed to proceed with the suit, if any, in accordance with law.

Communicate a copy of this judgment to the Court below at once.

(Justice Md. Badruzzaman)

I agree.

(Mr. Justice Sashanka Shekhar Sarkar)