

Present:
Mr. Justice Sheikh Abdul Awal
and
Mr. Justice Md. Mansur Alam
First Miscellaneous Appeal No.225 of 2013
with
Civil Rule No. 362(F.M)of 2013

In the matter of:
Memorandum of appeal against original order.
-and-

In the matter of:
Mahfuza Khanam

...Plaintiff-appellant

-versus-

Government of the People's Republic of Bangladesh
represented by the Deputy Commissioner, Dhaka and
others

...Defendant-respondents

No one appears

....Plaintiff-appellant

Mr. Md. Yousuf Ali, D.A.G.

...Defendant-respondents

Heard on: 28.04.2025
Judgment on: 04.05.2025.

Md. Mansur Alam, J:

The brief facts of this first miscellaneous appeal are that this appeal being aggrieved and dissatisfied is preferred by the plaintiff appellant against the order dated 12.05.2013 passed by the learned Joint District Judge, 1st Court, Dhaka in Title Suit No. 479 of 2013 refusing the plaint directing to submit a fresh plaint and also for rejecting the prayer of injunction under order 39, rule 1.

Against that order plaintiff appellant brought this appeal the plaintiff brought Title Suit No. 479 of 2013 with a prayer for declaration of title of the suit land and declaration that the suit property is in the property of Destiny 2000 Limited and diamond Builders Limited of its director Nepal Chandra Biswas.

The further case of the plaintiff petitioner is that the predecessor of the petitioner namely Nepal Chandra Biswas before taking the charge as director Destiny 2000 Limited sold out the suit land to the petitioner on 12.09.2005 and

thereafter petitioner mutated her name vide Mutation Case No. 103 of 2006 dated 08.03.2006 and since purchase she is in possession by giving taxes to the office of the concern Government authority. The petitioner submitted a plan for 06(six) storied building of the suit property to the office of the RAJUK on 12.07.2006 for approval and the same was approved on 08.01.2007 vide memo No. রাজউক/নঅঅ-২/তসি-২৫৪৬/০৬/৫০৩স্বা-তাং ০৪.০৩.২০০৭ইং। and thereafter the petitioner started construcion work over the suit land and completed 04 (four) storied building. At one stage on 20.04.2012 police personnel came to the petitioner's house from the office of the defendant No. 5 and told the guard of the house for establishing the petitioner title through court regarding suit property otherwise the suit house and its all goods will be took over through attachment. Accordingly, defendant No. 3 was a appointed as a receiver of the suit land the cloud has been created over the title of the plaintiff and as such for avoiding the said cloud the petitioner as plaintiff the Title Suit No. 479 of 2013 before the Court of Joint District Judge, 1st Court, Dhaka.

During pendency of the suit on 12.05.2013 of the petitioner file an application for temporary injunction under order 39 rule 1 and 2 read with section 151 of the Code of Civil Procedure with a prayer for restraining the defendant No. 1-6 and 8 i.e. opposite party Nos. 1-7 from dispossessing the petitioner forcibly or not to disturb the peaceful possession of the suit land or not to attach any goods from the suit holding till disposal of the suit.

After hearing the application for temporary injunction learned Joint District Judge, 1st Court, Dhaka vide order dated 12.05.2013 rejected the application for temporary injunction summarily.

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In the result, the appeal is dismissed. The impugned order dated 12.05.2013 passed by the learned Joint District Judge, 1st Court, Dhaka in Title Suit No. 479 of 2013 rejecting the prayer of temporary injunction is upheld.

Since the appeal is dismissed the connected Rule being Civil Rule No. 362(F.M) of 2013 is discharged.

Let a copy of this judgment be communicated to the Courts concerned at once.

Sheikh Abdul Awal, J:

I agree.

Against that order plaintiff appellant brought this appeal against with the prayer that it is the provisions of civil rules and order that if the pleadings be illegible in that regard the court direct the parties concern to file fresh plaint or written statements as the case may be but the court cannot returned the plaint in accordance with law and as such the impugned order is liable to be set aside.

Learned Lawyer on impeaching the point cited in Para 7 argued that since the learned Joint District Judge order 2 return the plaint so the impugned order is liable to be set aside.

On perusal of the impugned order on 12.05.2013 it is found the learned Joint District Judge found the plaint as not and understandable since in the plaint over writing and the reason of the same was not disclose their.

On perusal of the impugned order it is found that the learned Joint District Judge holding the view since the plaint was overwriting and some new words were added there but it those were not understandable and rule so the plaintiff is directed to file a fresh plaint. The order regarding return of the plaint is inadvertently return in that order. But this order is not as to be followed by the direction of the learned Joint District Judge.

So in the view of the above observation holding him that since opportunity to file a fresh plaint. So the impugned order of file a fresh plaint is sustainable.

On the view of observation of the First Miscellaneous Appeal is liable to be rejected.

Fatama/B.O