

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

Present:

Mr. Justice S M Kuddus Zaman

And

Ms. Justice Tamanna Rahman Khalidi

First Miscellaneous Appeal No.436 of 2015

Sunil Chandra Nath and others

... Appellants

-Versus-

Anil Debnath Montosh @ Montosh Nath and others

... Respondents

Mr. Ranjan Chakravorty, Advocate

... For the appellants.

Ms. Suriya Sharmi, Advocate

... For the respondent No.1.

Heard and Judgment on 15.01.2026

S M Kuddus Zaman, J:

This First Appeal is directed against the impugned judgment and order bearing No.04 dated 14.10.2015 passed by the learned Joint District Judge, 1st Court, Manikgonj, in Title Suit No.361 of 2015 rejecting the application for temporary injunction.

Facts in short are that the appellants as plaintiffs institute above suit on 01.10.2015 for following reliefs:

“১১। অত্র বাদীগণের প্রার্থনা এই যে,

ক) নালিশী দাবীকৃত ভূমিতে বাদীগণের স্বত্ত্ব থাকা এবং শিবালয়

ইউনিয়ন পরিষদ এর চেয়ারম্যান সাহেবের নাম ব্যবহার করিয়া ইং

১৩-০১-২০১১ ইং তারিখে প্রদত্ত ১ ও ২ নং বিবাদীগণের নামীয়

ওয়ারিশান সপদপত্র মূলে মানিকগঞ্জ অর্পিত সম্পত্তি প্রত্যর্পণ

ট্রাইবুনাল আদালতের অর্পিত ৮৭৩/১২ নং মোকদ্দমার ১৮-০৩-২০১৫ তারিখের রায় ও ২৪-০৩-২০১৫ তারিখের ডিফ্রি তৎমর্মে ডড্ডত অর্পিত সম্পত্তি প্রত্যাপণ আপীল ২৯/২০১৫ নং মোকদ্দমার ইং ২৭/০৮/২০১৫ তারিখের রায় ও ০১-০৯-২০১৫ তারিখে হাসেলকৃত ডিফ্রি তৎককতাপূর্ণ ও চতুরতামূলক।

উক্ত রায় ও ডিফ্রি বাদীগণের প্রতি বাধ্যকর নয় মর্মে ঘোষণামূলক ডিফ্রি দিতে ;

খ) সুদসহ আদালত ব্যয় বাদীর অনুকূলে বিবাদীদের বিরুদ্ধে ডিফ্রি দিতে ;

গ) মোকদ্দমা প্রমাণ ও অবস্থা অনুসারে বাদীগণ বাদীদের বিরুদ্ধে যেভাবে যে প্রতিকার পাওয়ার অধিকারী হয় তাহাও বাদীগণের অনুকূলে বিবাদীগণের বিরুদ্ধে ডিফ্রি দিতে মর্জি হয়।”

In above suit plaintiffs submitted a petition on 05.10.2015 under Order 39 Rule 1 of the Code of Civil Procedure for an order of injunction restraining defendant Nos.1 and 2 and 6-8 from mutating their names for the disputed property or transfer the same to any other person till disposal of above suit. On consideration of submissions of the learned Advocate for the plaintiffs and materials on record the learned Joint District Judge summarily rejected above petition vide impugned judgment and order dated 14.10.2015.

Being aggrieved by and dissatisfied above judgment and order of the trial Court above plaintiffs as appellants moved to this Court and preferred this First Miscellaneous Appeal.

Mr. Ranjan Chakravorty, learned Advocate for the appellants submits that above property belonged to Jogobondhu Nath who executed a will making Monotosh Nath and others as executants and above Monotosh Nath got probate of above will on 30.09.1997 and transferred above property to the plaintiffs by several registered sale deeds. Plaintiffs are in possession in above property by constructing dwelling house and cultivation. The defendants obtained forged Successive Certificate from the Office of the relevant UP Chairman and on the basis of the same filed Arpito Sampatti Protterpon Case No.873 of 2012 and fraudulently obtained judgment and decree on 18.03.2015 and against above judgment and decree an appeal was preferred to the Arpito Sampatti Protterpon Appellate Tribunal which was dismissed on 27.08.2015. The defendants are making relentless endeavor for getting their names mutated on the basis of above judgment and order of the Appellant tribunal and transfer above land to other persons. If above nefarious acts of the defendants were materialized the plaintiffs would suffer irreparable loss and injury. But the learned Joint District Judge utterly failed to appreciate above facts and circumstances of the case and materials on record and most illegally rejected above petition for injunction which is not tenable in law.

On the other hand Ms. Suraiya Sharmi, learned Advocate for respondent No.1 submits that the judgment and order passed by the Arpito Sampatti Protterpon Appellate Tribunal has been given finality

pursuant to Section 22(3) of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১. A Civil Court does not have legal competence to entertain a suit challenging the judgment and decree of the Arpito Sampatti Protterpon Appellate Tribunal. Nor a Civil Court has can pass an order of injunction for obstructing the implementation of a judgment and decree passed by the Arpito Sampatti Protterpon Appellate Tribunal. Since in above suit of the plaintiffs have challenging the legality and propriety of judgment and order of the Arpito Sampatti Protterpon Appellate Tribunal the suit was not tenable in law and they were not entitled to get an order of injunction and the learned Joint District Judge on correct appreciation of above materials on record rightly rejected above petition summarily which calls for no interference.

We have considered the submissions of the learned Advocates for the respective parties and carefully examined all materials on record.

As mentioned above in above suit plaintiffs have challenged the legality and propriety of judgment and order passed by the Arpito Sampatti Protterpon Appellate Tribunal, Manikgonj in Arpito Sampatti Protterpon Appeal No.29 of 2015 on 27.08.2015 on the grounds of suppression of material facts and forgery of Succession Certificate.

The অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ was promulgated to finally dispose of the properties enlisted as Arpito Properties by returning those to the original owners or their heirs or transferees through an administrative process by the Deputy Commission and through judicial process by the

the Arpito Sampatti Protterpon Tribunal and the Arpito Sampatti Protterpon Appellate Tribunal established under above Act. Section 22 of অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ gives finality to the judgment and order passed by the Appellate Tribunal in the following terms:-

“আপীল ট্রাইবুনাল উহার নিকট উপস্থাপিত তথ্যগত (Qestion of fact) ও আইনগত বিষয়ে (Question of law) যথাযথ সিদ্ধান্ত গ্রহণ করিতে পারিবে এবং উহার রায় চূড়ান্ত বলে গণ্য হইবে।”

There is fundamental distinction between a Tribunal and a Civil Court in terms of the made of establishment, procedure of work and subject matter and area of jurisdiction. A Tribunal is established by an Act on Ordinance in order to deal with specific subjects or issues through a special procedure. On the other hand a Civil Court is the creation of the Civil Courts Act, 1887 with enoromous jurisdiction for determination of any civil dispute involving right to property or right to office.

There is no provision in অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ for challenging the legality and propriety of any judgment or order of the Arpito Sampatti Protterpon Tribunal or the Arpito Sampatti Protterpon Appellate Tribunal to a Civil Court.

As mentioned above the plaintiff sought an order of injunction so that the defendants cannot mutate their names or transfer above property on the basis of above judgment and order of the Arpito

Sampatti Protterpon Appellate Tribunal. Section 11 of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ provides for delivery of possession and mutation of the names of the decree holders by the relevant Revenue Officer within 30 days. As such an order of temporary injunction against mutation of names of the decree holders directly conflicts Section 11(6) of the Arpito Sampatti Protterpon Ain, 2001.

If any person is permitted to challenge the legality of any judgment or order of the Arpito Sampatti Protterpon Tribunal or Appellate Tribunal in a Civil Court or obstruct the execution of a judgment or decree of above Tribunal or Appellate Tribunal by an order of temporary injunction then the purpose and object of promulgation of অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১ will be defeated.

In above petition plaintiffs sought an order of temporary injunction for the land appertaining to 40 several plots of several khatians situated in five several Mouzas, namely, Tetolia, Shibaloy, Chotoboaliya, Boroboaliya and Kaktalin. But the plaintiffs did not mention the quantity of total land nor provided specification of any land of any plot. The property for which an order of injunction was sought remains unspecific and vague.

In above view of the facts and circumstances of the case and materials on record we are unable to find any illegality or irregularity in the impugned judgment and decree passed by the learned Joint District

Judge nor we find any substance in this First Miscellaneous Appeal which is liable to be dismissed.

In the result, the First Miscellaneous Appeal is dismissed.

The order of stay granted at the time of issuance of the Rule is vacated.

However, there will be no order as to costs.

Send down the lower Court record immediately.

Tamanna Rahman Khalidi, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER