4 SCOB [2015] HCD 117

HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

Writ Petition No. 7517 of 2015

Kazi Md. Salamatullah & others
..... Petitioners

Vs.

The Government of the People's Republic of Bangladesh & others
.... Respondents

Mr. A.S.M. Moniruzzaman, Advocate,
.... For the petitioners

Mr. Sabyasachi Mondal, Advocate
.... For respondent no. 6

The 19th October, 2015

Present:
Mr. Justice Gobinda Chandra Tagore
&
Mr. Justice Muhammad Khurshid Alam Sarkar

Court's power to oversee the professional performance and to regulate the Court-conduct of the learned Advocates:
Court is well empowered to oversee the professional performance and also to regulate the Court-conduct of the learned Advocates and, in an appropriate case, impose costs upon a learned Advocate for finding his conduct to be unbefitting with the norms and etiquettes of the legal profession. Accordingly, instead of referring this incident to the Bar Council towards drawing up proceedings against the learned Advocate for the petitioners, we are taking a lenient view by warning him with an expectation that this kind of incident shall never be repeated by him in future. ...(Para 30)

Judgment

MUHAMMAD KHURSHID ALAM SARKAR, J:

1. By filing an application under Article 102 of the Constitution, the petitioners sought for a direction upon the respondents to mutate their names on Plot no. 32, Sector no. 13, Road no. 03 for a quantum of land of 5 kathas under Uttara Model Town, Dhaka.

2. Succinctly, the facts of the case, as stated in the writ petition, are that on 01.08.1991 the RAJUK (respondent no. 2) under the signature of its Deputy Director (respondent no. 5) allotted the case land in favour of Md. Asar Uddin and the possession thereof was handed over to him on 25.10.1992. Thereafter, the said allottee, Md. Asar Uddin, executed a bainapatra with Kazi Suriya Begum, who is the predecessor of these petitioners, for selling the case property and after receiving the advanced earnest money when the said allottee was dilly-dallying to register the said plot in favour of Kazi Suriya Begum, the latter filed Title Suit no. 259 of 1998 in the 1st Subordinate Judge Court, Dhaka for specific performance of contract. Eventually, on 25.09.2002 the suit was decreed *exparte* and sale deed was executed and registered through Court in Execution Case no. 02 of 2003 in favour of Kazi Suriya Begum vide registered deed no. 10233 dated 27.06.2004. Pursuant to the Court's order

passed in Execution Case no. 2 of 2003, Kazi Suriya Begum paid transfer fees and filed an application to the RAJUK for mutation of the land in her favour. Thereafter, Kazi Suriya Begum made a Will in favour of these petitioners vide the Will dated 27.08.2009. These petitioners, then, approached RAJUK for mutating the property in their names, but the RAJUK has remained silent. In the premises, they approached this Court and hence this Rule.

3. Respondent no. 6 has filed an affidavit-in-opposition contending, *inter-alia,* that the petitioners have managed to obtain the instant Rule by suppressing the following facts namely; the *exparte* decree passed in Title Suit no. 259 of 1998 on 25.09.2002 was obtained and the execution of the same vide Execution Case no. 02 of 2003 on 24.02.2005 was done by practicing fraud upon the Courts below. Coming to know about the *exparte* decree and the Execution Case this respondent, on 24.02.2005, instituted in the trial Court Miscellaneous Case no.18 of 2005 for setting aside the said *exparte* decree and its execution on the ground that the receipt of summons, as has been recorded in the order sheet, is concocted and the appearance of this respondent no.6, as shown in the order sheet, is also a forged one. The said Miscellaneous Case having been renumbered as 46 of 2006, then, as Miscellaneous Case no. 34 of 2006 was allowed on contest on 09.08.2007 by the learned Joint District Judge, (Arbitration Court), Dhaka, upon setting aside the *exparte* decree dated 25.09.2002 together with its execution and, accordingly, Title Suit no. 259 of 1998 was restored to its original file and number. Thereafter, the predecessor of these writ petitioners, Kazi Suriya Begum, filed Civil Revision no. 3984 of 2007 in the High Court Division whereupon a Rule was issued and, later on, the same was discharged on 27.04.2008, against which she filed Civil Petition for Leave to Appeal no. 680 of 2009 and during pendency of the said Civil Petition for Leave to Appeal, when she died on 31.08.2009, these petitioners substituted themselves in the said Civil Petition for Leave to Appeal which was finally rejected on 14.12.2010. That is how the order passed by the trial Court in Miscellaneous Case no. 34 of 2006 was upheld by the Appellate Division by restoring the said Title Suit no. 259 of 1998 to its original file and number. Thereafter, respondent no. 6 made an application before the learned trial Court under Section 144 of the Civil Procedure Code (CPC) for restitution and the same having been registered as Miscellaneous Case no. 20 of 2011, was allowed on 08.10.2012, against which these petitioners approached the High Court Division having filed the Civil Revision no. 3397 of 2012 wherein a Rule was issued and, later on, the same was discharged on 25.07.2013. Against the said order of the High Court Division, these petitioners filed Civil Petition for Leave to Appeal no. 114 of 2014 which was also rejected on 15.06.2015 and, lastly, they filed Civil Review Petition no. 131 of 2015 before the Appellate Division and the same is pending before the said Court.

4. On 11.10.2015, the added respondent no. 6, Mrs. Saleha Akter, filed an application for vacating the order of status quo which was granted on 12.08.2015 by this Court upon a separate written prayer made by this petitioner. The said application for vacating the order of status quo appeared in the daily cause list of this Bench as an application on 12.10.2015. Upon hearing both the parties, this Court was of the view that instead of disposing of the application, the Rule itself should be heard and disposed of and, accordingly, the Rule has been fixed for hearing on 13.10.2015.

5. Mr. A.S.M. Moniruzzaman, the learned Advocate, appears for the petitioners. At the very outset of making his submissions, he was confronted with a query as to his failure to appear before this Court on 13.10.2015, for, the Rule was fixed on 12.10.2015 in his presence with an avowal from this Court to both the parties that the matter shall be taken up for hearing on the following day. On 13.10.2015 in the morning, the learned Advocate for the

petitioners prayed for time, but the same was rejected making the parties understood that this Bench will continue for 3 (three) weeks and there was hardly any item in the Daily Cause List to exhaust this Court's working hours. However, just after a while, when the matter was taken up for hearing, to our utter dissatisfaction the learned Advocate for the petitioners was not found.

6. In the said premises, we asked the learned Advocate for respondent no. 6 to place the facts of the case before the Court to make use of the Court's time with an expectation that the learned Advocate for the petitioner might rush back, but he did not turn up. The learned Advocate for respondent no. 6, upon comprehensively dissecting the chronology of the facts which took place prior to filing the instant writ petition, prayed for discharging the Rule on the ground of practicing fraud upon this Court. He referred to the case of Moulana Md. Abul Kader Azadi Vs Bangladesh 58 DLR 114 and, relying on the *ratio* laid down in paragraph 13 thereof, candidly submitted that since the suppression of the fact as to the pendency of a suit in a competent civil Court on the self-same matter is nakedly evident from the annexed papers, for, not a single word has been mentioned in this regard in the writ petition, this Court is well competent to discharge the instant Rule without hearing the learned Advocate for the petitioner. He, then, referred to the case of AKM Asaduzzaman Vs Public Service Commission 4 ALR 2014 (2) 278 and the case of Bandar Nagari Bahumukhi Samabay Samity Limited Vs Bangladesh 5 ALR 2015(1) 194 and forcefully submitted that the learned Advocate and the writ petitioner, both, should be penalized for abusing the process of this Court.

7. However, for ends of justice, we asked the learned Advocate for respondent no. 6 to personally inform the learned Advocate for the petitioner that this Court has directed him to appear before us on the following day to assist the Court in disposing of the Rule.

8. Since then the matter was appearing in the daily cause list with the name of the learned Advocate for the petitioners and, furthermore, every day the learned Advocate for respondent no. 6 was reporting to this Court that, as per the verbal direction of this Court, although he is personally communicating with the learned Advocate for the petitioners to appear before the Court to conduct the hearing of the matter, he was not paying heed thereto.

9. Being faced with this avalanche, the learned Advocate for the petitioners harped on his explanation that after receiving the copy of the application for vacating the order of status quo he endeavored to contact his client to receive his instructions but he is yet to receive any instructions. He contends that at the time of filing this writ petition, even at the time of moving the application for injunction, he was not aware of the facts that the original suit is pending in the concerned civil Court as the *exparte* decree in question, on the basis of which this writ petition is filed, has already been set-aside by the Apex Court. He vehemently claims that he came to know about these facts only on 23.08.2015 after receiving the copy of the application for vacating the order of status quo.

10. After presenting the above facts before this Court by himself, we asked him whether still he considers to proceed with the Rule or wishes to have the Rule discharged on non-prosecution ground. In reply thereto, he produced the order dated 06.08.2015 passed by the Hon'ble Judge-in-Chamber of the Appellate Division passed in Civil Review Petition no.131 of 2015 and submits that since the date of hearing of the said Review Petition has been fixed by the Apex Court on 07.06.2016, this Rule may be discharged with an observation to that effect and, accordingly, he opted to have a detailed judgment.

11. In order to verify the veracity of the learned Advocate's above contentions that he was not posted with the background-story of this case and that he came to know about it only on 23.08.2015 through receiving the copy of the application for vacating the order of Status quo, this Court, in a round-about manner, quizzed the learned Advocate for the petitioners regarding the source of procuring the certified copy of the Civil Review Petition no. 131 of 2015, for example, how did he get hold of the same. He promptly informed this Court that he collected the said certified copy through his clerk.

12. Upon skimming through the certified copy of the said Civil Review Petition no. 131 of 2015, it reveals that the same was obtained by the learned Advocate for the petitioner on 10.08.2015, whereas the copy of the application for vacating the order of status quo was received by him on 23.08.2015 i.e. after 13 days of receiving the certified copy of the Civil Review Petition no.131 of 2015 he received the copy of the application for vacating the order of status quo. In other words, the learned Advocate for the petitioners came to know about the suppression of the above facts well before the date of receiving the application for vacating the order of status quo. That is how, by resorting to our own mode of investigation, it surfaced that the contentions of the learned Advocate for the petitioners that he was not aware of the fact of setting aside the decree dated 25.09.2002, and that he came to know about the said facts recently on 23.08.2015, are completely false.

13. After hearing the learned Advocate for the petitioners, albeit without pin-pointing the revelation of the above state of affairs through our own device, we again gave him an opportunity to consider as to whether he should non-prosecute the Rule or whether he wants to receive a full judgment, for, it is within the competency of an Advocate to non-prosecute a Rule or not to press an application, be it a writ petition or other application, whenever it becomes known to him that facts have been suppressed by the petitioner or if an indication is made by the Court that there is no merit in the case after being afforded the opportunity of presenting his case at length. The source of this power of an Advocate is his Vokalatnama, wherein all the litigants confer upon an Advocate the power of filing the case in tandem with the power to do the needful in connection with the said case which necessarily includes the power of taking a decision to non-prosecute a petition (not to press a petition) and non-prosecute the Rule. However, to be on safer side, the filing Advocate may seek a written instruction from his client for an untainted and bonafide case where the writ petition/application is immune from the blame of suppression of facts or adopting any other unfair means. Since the learned Advocate for the petitioners, as per his claim, came to know on 23.08.2015 about the non-disclosure of the facts which are the foundation of issuance of the instant Rule, within the last two months he could have taken instructions from his client not to proceed with the Rule. However, for this case, after exposure of the suppressions of facts in obtaining this Rule there was no need to receive his client's written instructions for non-prosecution of this case.

14. Instead of availing the said opportunity, the learned Advocate for the petitioners today wished to have a detailed judgment discharging the Rule and, accordingly, when this Court was delivering judgment upon recording the manner and style of the learned Advocate for the petitioners in conducting this case, at this juncture, he made a prayer to this Court that he does not want to proceed with the Rule and begged unconditional apology for his conduct in dealing with this case.

15. Although this Court may have decided to discharge the instant Rule for non-prosecution, as prayed for by the learned Advocate for the petitioner, however, given the fact

that the learned Advocate for the petitioner made the said prayer at a belated stage in a compelling circumstance only when this Court was recording his unscrupulous mode of presentation of this case before this Court, it is not unlikely that these writ petitioners might subsequently challenge their Advocate's prayer as to non-prosecution of the case with a motive to squander further time. Under the circumstances, we thought it to be just, fair and prudent to dispose of the case on merit.

16. In adjudication upon the Rule on merit, the only issue required to be examined is whether the petitioner is entitled to have an order of direction from this Court compelling the RAJUK to mutate their names on the case land. From the submissions made and grounds taken in the writ petition, it appears that the writ petitioners' basis for seeking such a direction is the *exparte* decree dated 25.09.2002 passed in Title Suit No. 259 of 1998 in tandem with the registered deed no. 10233 dated 27.06.2004, obtained through Execution Case No.02 of 2003. In the light of the fact that it, now, appears from the papers annexed to the application for vacating the order of status quo that the *exparte* decree in question has been set aside by the Apex Court on 14.12.2010 and the original suit being Title Suit no. 259 of 1998 is pending before the trial Court upon being renumbered as Title Suit no. 25 of 2013, there can be no legal basis to pray for a writ of mandamus, for, this Court shall be competent to direct the RAJUK to do something, only when it will be established that the RAJUK was required by law to do. Given the disclosure of the true position of the mutation of the case land, RAJUK being not legally bound to mutate the names of the petitioners, the instant Rule is liable to be discharged.

17. Now, we may take up the issue as to whether the learned Advocate for the petitioners and also the petitioners deserve any penalty, as prayed for by the learned Advocate for respondent no. 6.

18. As per the statements of the learned Advocate for the petitioners, the certified copy of the order of Civil Review Petition no. 131 of 2015 passed by the Appellate Division was picked up by his clerk on 10.08.2015 and, therefore, there is no scope for the learned Advocate for the petitioners to refute that he had the knowledge of setting aside the *exparte* decree in question, its execution, restoration of the original suit which is now pending in the concerned trial Court and the fact of allowing application for restitution at least on 10.08.2015, if not at the time of filing the writ petition. With all the above information in his hand, he ought not to have prayed for injunction before this Court on 12.08.2015 by suppressing the series of events that took place centering the Title Suit no. 259 of 1998. After finding him to be a false statements-maker for the facts happened upto 10.08.2015, no one would believe his forceful claim as to not having information about the past facts of this case at the time of filing this writ petition. With the said revelation of making untrue statements, no sign or reflection of remorse for committing such an offence by him was noticed in his demeanour, rather he was insisting on delivering judgment. His apparent U-turn to pray for non-prosecuting the case is nothing but an attempt to escape from the aspersions which were being recorded in delivering this judgment. Prior to that, despite the sporadic adverse observations made by this Court regarding the learned Advocate's conduct in handling this case, he was boldly maintaining his position that he came to know about these episodes only on 23.08.2015 after receiving the copy of the application for vacating the order of status quo and until this Court proved his statements to be untrue by showing the date of procurement of the Apex Court's order by his clerk on 10.08.2015 with the date of obtaining the order of injunction on 12.08.2015 and the date of receiving the copy of the application for vacating the order of status quo on 23.08.2015, he did not feel conceding the misdeeds committed by

him in collusion with these writ petitioners. If he is taken to be an Advocate with the least professional knowledge, even as a naive one, his sense in no way can dictate him to pursue a writ petition in this Court with an expectation to obtain mutation of a land which is registered in the names of other persons who had been possessing the same upon mutating their names and obtaining a building plan from the RAJUK.

19. This is, thus, a clear case of practicing fraud upon the Court and a sheer example of extreme abuse of the process of the Court and, accordingly, the learned Advocate for the petitioner as well as the petitioners deserve to be exemplarily penalized.

20. With the above resolution on the issue of conduct of the learned Advocate for the petitioners, this Court now needs to see whether this Court is competent to impose any penalty on any delinquent Advocate for his professional misdeed or misconduct.

21. In the case of Bandar Nagari Bahumukhi Samabay Samity Limited Vs Bangladesh 5 ALR- 2015(1)194, this Court imposed a token fine on the learned Advocate for the petitioner for getting the extension of stay in spite of the expiry of the tenure of the Samity. This Court in imposing fine upon the learned Advocate by discharging the Rule made the following observations;

> "The Courts are inherently empowered to monitor the professional conduct of the Advocates, for, the members of this profession being the integral part of the judiciary their manner and style of presentation of a case before the Courts are well within the radar of this Court." (Para 10)

22. In the said case, with regard to the power of the High Court Division in monitoring the conduct of the learned Advocates, the Court made the following observations;

> "With this aspect in view, while upholding of the prestige and image of the judiciary is considered to be the foremost duty of this Court, it may unhesitatingly be held that this Court is well empowered to monitor and control the conduct of the learned Advocates by justifying the reasons for carrying out such exercise." (Para 10)

23. With regard to absence of legal provision to monitor the professional dealings of the learned Advocates, this Court in the afore-cited case observed that;

> "The High Court Division cannot shrug off its duty to maintain the high standard of the judiciary, which includes the quality of the legal profession, on the plea that there is no legal provision to control and monitor the professional conduct of the Advocates." (Para 10)

24. The Court in the said case further opined that;

> "When no law of our land prohibits this Court to monitor and control the lawyers' affairs related to or arising out of or connected to a case, we are of the view that this Court should not hesitate to pass necessary orders based on the principles of equity and good conscience with an aim to benefit the judiciary by endeavoring to maintain the quality of the legal profession." (Para 10)

25. In the said case, then, the Court laid down the basis and source of the power of this Court on monitoring the conduct of the Advocates in the following manner;

> "It is known to us that when there was no formal Parliament in the civilized societies, it is the Courts who, upon being approached by the citizens with their grievances

against an individual or agent of the ruler, used to adjudicate upon the complaints on the basis of good conscience and principles of equity with reasonings and, that is how, the common law used to dominate the field of legislation." (Para 10)

26. Then, the Court declared that this Court is well empowered to regulate the conduct of the learned Advocates in the following words;

"The fact that the State has not made adequate legal provisions to oversee the conduct of the learned Advocates, it does not ipso facto debar this Court from looking at the affairs of the Advocates inasmuch as they are inseparable part of the judiciary." (Para 10)

27. In the case of AKM Asaduzzaman Vs Public Service Commission 4 ALR 2014 (2) 278, the Court, upon hearing the learned Advocate at length, found the case to be without any merit, and in the said premises, the Court was expecting that the learned Advocate for the petitioner would non-prosecute the said case instead of receiving the full judgment. However, when the learned Advocate for the petitioner of the cited-case opted to have a detailed judgment, the Court was obliged to hand down a full judgment with the following observations with regard to the power of this Court to make an assessment about the professional competency and also to oversee and regulate the overall conduct of the learned Advocates;

"The members of our Bar have almost forgotten that Courts are duty-bound to oversee the quality, skill and overall conduct of an Advocate and make observations as to the competency of an Advocate and, in an appropriate case, it may also suo motu suspend their license and, then, refer the same to the Bangladesh Bar Council for adjudication on the allegations raised by the Court and, thereby, seek cancellation of the license and removal of the Advocate."

28. In the case at hand, while the appropriate course of action for this Court would be to ask the Bangladesh Bar Council to initiate proceedings against the learned Advocate for the petitioners, considering the likely fatal consequence of suspending his license, even if it may be for the least time, following the disposal of the Bar Council's proceedings, we think that it would be a harsh order for a practitioner who has joined the profession only a couple of years ago on 23.07.2013. In the case of AKM Asaduzzaman Vs Public Service Commission 4 ALR 2014(2) 278, the following observations were made by this Court for the learned Advocates who are the first time wrong-doers:

"Failure of an Advocate to properly advise his client demonstrates his professional incompetency which may result in cancellation of the practicing license of such an Advocate given the fact that if this Court refers a matter to the Bar Council for adjudication, questioning the professional conduct of an Advocate, this may culminate into cancellation of his license thereby affecting his livelihood and, thus, instead of going for the aforesaid rigorous action, the Courts, taking a lenient view, may impose costs upon an Advocate to record his conduct on file."

29. In the afore-cited case the High Court Division opined that imposing a token fine on the learned Advocate, instead of sending him to the Bar Council, would be a favourable order for the delinquent Advocate.

30. From the above-quoted observations made in the case of AKM Asaduzzaman Vs Public Service Commission 4 ALR 2014(1)278 and in the case of Bandar Nagari Bahumukhi Samabay Samity Limited Vs Bangladesh 5 AIR 2015(1) 194, it is abundantly clear that this

Court is well empowered to oversee the professional performance and also to regulate the Court-conduct of the learned Advocates and, in an appropriate case, impose costs upon a learned Advocate for finding his conduct to be unbefitting with the norms and etiquettes of the legal profession. Accordingly, instead of referring this incident to the Bar Council towards drawing up proceedings against the learned Advocate for the petitioners, we are taking a lenient view by warning him with an expectation that this kind of incident shall never be repeated by him in future.

31. With the passage of time, it is hoped, the learned Advocate will rectify himself and will not be enticed to engage himself in any activity unsuited to this noble profession. We wish to see the learned Advocate make himself a man of high moral. It was observed in the case of Bandar Nagari Bahumukhi Samabay Samity Limited Vs Bangladesh 5 ALR 2015 (1) 194 that;

> "Legal profession is considered to be the most sophisticated and noble profession across the globe and the members of this profession are perceived by the commoners not only to possess vast knowledge but also to be the mentors and guides of the societies and, accordingly, it is the normal optimism of the citizenry that they would hold an image of high moral standard." (Para 10)
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> "While the learned Advocates in general are expected to hold and maintain a high standard of transparency both in rendering services to their clients as well as performing their duties to the Courts, the Advocates of the Apex Court, in particular, are hoped to play a fair positive role in dispensation of justice." (Para 10)
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> "There should not be any performance by any learned member of the Bar which might appear to be unbefitting to the etiquette, norms and practice of the legal profession such as non-disclosure of a fact before the Court or non-submissions of the relevant laws etc." (Para-10)

32. We, however, feel that the present case is a fit and proper case to impose exemplary costs upon the petitioners for their deliberate suppression of the facts with a motive to achieve the Rule and subsequent interim order from this Court.

33. Notwithstanding making the above observations about the mode of handling this writ petition by the learned Advocate for the petitioners as well as the observations about the conduct of the petitioners, the learned trial Court should proceed with the trial without taking any negative impression about the petitioners. In other words, in conducting the trial of the suit, the learned trial Court should not be influenced by this order of penalty upon the petitioners. Because, a fine in this case is being imposed merely for non-disclosure of the fact of pendency of the suit in the trial Court and the past history connected thereto. In a desperate move, litigants like these petitioners, for retaining their possession on the case land, being misguided by their engaged Advocates at the lower Courts or the people who are entrusted with the duty to look after the property, sometimes choose this type of route. In this case, admittedly most of the petitioners are Non-Resident Bangladeshis (NRBs) and it might happen that the learned Advocates at lower Courts or the caretaker of this property out of their over-enthusiasm instigated the petitioners to choose this path. Thus, the petitioners' claim in the suit must be assessed and judged only on the basis of the evidence and other materials produced before the trial Court. The trial Court must put its best effort to do the

justice to all the parties to the suit, for, it is not unlikely to be revealed from the evidence that both the purchasers (these petitioners as well as respondent no. 6) are genuine, but the seller cheated them by taking money from both of them; these writ petitioners as well as from respondent no. 6. All that this Court wishes to suggest is that truth must prevail and falsehood must be defeated so that the people of this land, specifically the NRBs who sometimes get frustrated with the trial system of Bangladesh, may find confidence in the performance of the Bangladesh judiciary.

34. Given the chequered history of this case and, particularly, the failure of the trial Court to notice and detect the activities of the plaintiff-side in making out a case for obtaining *exparte* decree by showing service of summons and then the appearance of respondent no. 6 of this writ petition, and since this Court, sitting in Constitutional jurisdiction, owes a duty to superintend the performances of the subordinate Courts, as engraved in Article 109 of the Constitution, it would be appropriate to make some directions for the learned trial Court in an effort to prevent further abuse of the process of the Court by any of the parties of the suit;

(i) The Title Suit No. 25 of 2013, which was originally numbered as Title Suit No. 259 of 1998, shall be disposed of within 6 (six) months from the date of receipt of this order with appropriate costs upon these petitioners, if it surfaces that their claim of entering into agreement with Asir Uddin is fabricated.

(ii) It is for the trial Court to consider and decide whether it would proceed with the eviction process against these petitioners from the suit property in the light of the fact that the Appellate Division has already fixed a date for hearing of the Civil Review Petition No. 131 of 2015.

(iii) In order to stop recurrence of practicing fraud upon the Courts in obtaining *exparte* decree aiming at establishing a transparent judiciary, we feel that the main culprits involved in showing the summons had been served upon respondent no. 6 of this writ petition and, subsequently, she had appeared in the trial Court, must be to be identified. Unfortunately our Courts usually do not tend to take these issues seriously by bringing the culprits to book probably because of being loaded with their routine works, the same occurrences are going on for decades and the judiciary is being overburdened with huge backlog of cases. Therefore, the learned District Judge, Dhaka should be directed to investigate into the aforesaid matter towards detecting the persons involved in these types of misdeeds and take disciplinary actions as well as criminal case against the perpetrator/s.

35. In the result, with the above observations and directions the Rule is discharged with a cost of Taka 5,00,0000/- (Five lacs) to be paid by the petitioners to the National Exchequer by way of submitting Treasury Challan within 29.11.2015. The order of status quo granted at the time of issuance of the Rule is hereby vacated.

36. The learned Advocate for the petitioners is directed to file an affidavit-in-compliance on or before 30.11.2015.

37. The learned District Judge, Dhaka is directed to probe into the occurrences took place in showing the service of summons as well as appearance of respondent no. 6 of this writ petition in Title Suit no. 259 of 1998. He is further directed that upon detecting the persons involved in the incident, he shall take appropriate legal action against them.

38. Office is directed to send a copy of this judgment to the learned District Judge, Dhaka at once for his information and necessary action.

39. Let the matter appear before the concerned Bench on 30.11.2015 for recording the compliance of this order of direction as to payment of the above costs and then dispose of this Rule finally.