

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

Present:

Mr. Justice Zafar Ahmed

Civil Revision No. 3927 of 2007

Yousuf Mondal Waqf Estate

.....plaintiff-petitioner

-Versus-

Mst. Aklima Khatun and others

..... defendant-opposite Parties

Mr. Dewan Makhdum with

Mr. Md. Enamul Haque, Advocates

....for the plaintiff-petitioner

Mr. Md. Sazzad Ali Chowdhury, Advocate

.... for the defendant-opposite Party No. 2

Heard on: 27.10.2024 and 28.10.2024

Judgment on: 29.10.2024

In the instant civil revisional application filed under Section 115(1) of the Code of Civil Procedure, this Court on 26.08.2007 issued a Rule calling upon the opposite party Nos. 1 and 2 to show cause as to why the impugned order dated 18.07.2024 passed by the Joint District Judge, 1st Court, Chapainawabganj in Other Class Suit No. 01 of 2004 should not be set aside.

At the time of issuance of the Rule, this Court passed an interim order staying operation of the further proceedings of the Other Class Suit No. 01 of 2004.

I have heard the learned Advocate of the petitioner and the learned Advocate of the opposite party No. 2 and perused the materials on record.

The present petitioner as plaintiff, which is a waqf estate situated at Chapainawabganj, filed Other Class Suit No. 1 of 2004 for declaration of title in the Court of Joint District Judge, 1st Court, Chapainawabganj impleading the opposite parties as defendants. In the said suit, the plaintiff filed an application for local investigation under Order 26 Rule 9 of the Code of Civil Procedure (CPC). The said application was rejected by the Court below, vide order dated 18.07.2004 and hence, the instant civil revision and the Rule.

It is stated in the plaint that the subject matter of the suit consists of 43 acres of land which is a waqf property. The waqif executed the waqf deed in December 1919. It is further stated in the plaint that the execution and registration of the waqf deed was done prior to publication of the C.S. Khatian and the waqf property was identified by giving Bangla boundaries (বাংলা চৌহদ্দী). However, in the schedule of the plaint the said Bangla boundary as mentioned in the waqf deed was not given, rather the suit property was identified by

mentioning C.S, S.A and R.S Khatians with relevant plot numbers.

As mentioned earlier, the plaintiff filed an application for local investigation to ascertain whether the C.S plots were created as per C.S map arising out of Bangla boundaries (বাংলা চৌহদ্দী) as mentioned in the waqf deed. However, the বাংলা চৌহদ্দী was not given in the application for local investigation. The Court below rejected the application holding that the plaintiff did not mention the বাংলা চৌহদ্দী in his application and as such, the application is vague and not maintainable. In my view, the trial Court rightly rejected the application because without giving the বাংলা চৌহদ্দী in the plaint as well as in the application for local investigation it is not possible to conduct the local investigation as prayed for. Therefore, I find no merit in the Rule.

In the result, the Rule is discharged.