

13 SCOB [2020] HCD

HIGH COURT DIVISION

(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. 18301 OF 2017

East West Property Development (Pvt.) Ltd. and another.

.....Petitioners.

-VERSUS-

Deputy Commissioner, Manikgonj.

.....Respondent.

Mr. Ahsanul Karim, with
Mr. Khairul Alam Choudhury,
Mr. Tanveer Hossain Khan, Advocates
.....For the Petitioners.

Mr. Md. Mokleshur Rahman, DAG

.....For Respondent

Heard on 26.02.2018 & 14.03.2018.

Judgment on: 04.04.2018.

Present:

Ms Justice Naima Haider

And

Mr. Justice Zafar Ahmed

Mutation, Water Development Board, the (Emergency) Requisition of Property Act, 1948, Deputy Commissioner, cancellation of mutation, repealed, স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল আইন, ২০১৭ (The Act, 2017), valid acquisition, acquisition of the property:

That there being no decision of the Government for acquisition of the property in question, there is no valid acquisition of the property and in the meantime the said proceeding having become non-est due to repeal of the said section 47 of the said Ordinance, 1982, there is no further scope to take decision for acquisition of the property. ... (Para 24)

JUDGMENT

Naima Haider, J:

1. This is an application under Article 102 read with Article 44(1) of the Constitution of the People's Republic of Bangladesh, wherein at the instance of the petitioner this Division vide order dated 12.12.2017 issued Rule in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the action of the respondents in failing to cancel the Land Acquisition Case No. 12/1970-71 pending before the respondent in compliance of the decision of Divisional Commissioner, Dhaka as evinced in Memo No. ০৫.৪১.৩০০০.০১০.১৪.০০১.১৬-৬০ (সং) dated 30.05.2017 of Divisional Commissioner, Dhaka (Annexure-A) shall not be declared to have been done without lawful authority and is of no legal effect and as to why the respondent shall not be directed to cancel the Land Acquisition Case No. 12/1970-71 pending before the respondent in compliance of the decision of Divisional Commissioner, Dhaka in Memo No. ০৫.৪১.৩০০০.০১০.১৪.০০১.১৬-৬০ (সং) dated 30.05.2017 of Divisional Commissioner, Dhaka (Annexure-A) and/or such other or further order or orders passed as to this court may seem fit and proper.”

2. Mr. Ahsanul Karim and Mr. Khairul Alam Choudhury, Advocates appeared for the petitioners. Mr. Md. Mokhlesur Rahman, Deputy Attorney General, appeared for the respondent.

3. The respondent submitted affidavit-in-opposition dated 06.03.2018 against the writ petition. The petitioners thereafter filed an affidavit-in-reply dated 14.03.2018 against the said affidavit-in-opposition dated 06.03.2018.

4. The case of the writ petition is that the petitioner No. 1 is absolute owner of the lands fully described in Schedule-A as well Schedule-B of the writ petition (hereinafter referred to as the said lands). The name of the petitioner No. 1 was duly mutated against the said lands. But subsequently Union Land Assistant Officer of Ghior Upazilla of Manikgonj initiated Miscellaneous Case No. 11/2012-2013 before the Court of Assistant Commissioner (Land), Ghior, Manikgonj for cancelling the mutation of name of the petitioner No. 1 against the said lands. The Assistant Commissioner (Land), Ghior, Manikgonj vide order dated 14.11.2012 in the said Miscellaneous Case No. 11/2012-2013 cancelled the name of the petitioner No. 1 against the said lands (Annexure-B). The said Assistant Commissioner (Land) cancelled the mutation of the name of the petitioner against the said lands on the alleged ground that the said lands includes certain lands, which was acquired for Water Development Board in L/A Case Nos. 12/1970-1971 and 13/1970-1971. The petitioners state that the petitioners having enquired found that the said lands was never acquired as claimed in the said order dated 14.11.2012 of Assistant Commissioner (Land). The petitioners also state that the land in question was requisitioned under the (Emergency) Requisition of Property Act, 1948 (the Act, 1948) for the purpose of acquisition, but the property was never acquired. The petitioners rely on section 5 of the said Act, 1948, which requires the Government to publish gazette notification for acquiring the land. The petitioners state that there is no decision of the Government for acquiring the lands, neither the Government has ever published any gazette notification for this purpose. The petitioners state that the respondent vide Memo Nos. ০৫.২৭৪.৩০৩.১৫.০০.০১২.২০১২-১০০(সং) dated 07.07.2012 and ০৫.২৭৪.৩০৩.১৫.০০.০১২.২০১২-১০১(সং) dated 07.07.2012 (Annexures-D & D(1)) admitted that the gazette notification was not published, rather the respondent on 07.07.2012 requested the Commissioner, Dhaka to publish gazette notification in respect of the said L/A cases for acquisition of land under the said Act, 1948. The petitioners state that the said Act, 1948 having no more any force of law, the said L/A proceedings is liable to be cancelled. The petitioners again state that the requiring body, i.e., the Bangladesh Water Development Board of Manikgonj vide Memo No. L21/1788 dated 04.12.2016 stated that the requiring body does not need the said land any more (Annexure-I). The petitioners thereafter refer the Memo No. ০৫.৪১.৩০০০.০১০.১৪.০০১.১৬-৬০(সং) dated 30.05.2017 directed the respondent to take step for cancelling the proceeding of L/C Case No. 12/1970-1971 since there is no subsisting proceeding of the said L/A case (Annexure-A). The petitioners pray for direction upon the respondent to comply with the direction of Deputy Commissioner, Dhaka as evidenced in the said Memo dated 30.05.2017.

5. The respondent filed affidavit-in-opposition dated 06.03.2018. The respondent states that the land in question was acquired under the said Act, 1948 for the Water Development Board and neither the acquiring body nor the required body has any right to cancel or to recommendation for cancellation of the L/A case. The respondent further states that delay of publishing gazette or non publishing the gazette under the said Act, 1948 for acquiring the land does not give the owners of the petitioners to get release of the land or to cancel the L/A proceedings. The respondent states that section 5(5) of the said Act, 1948 requires the Deputy

Commissioner to submit the case to Government for final decision only if any objection against the acquisition is raised, and since no such objection was ever raised against the L/A proceeding, the Deputy Commissioner did not submit any case with the Government for its decision and hence the respondent vide Memo Nos. ০৪.২৭৪.৩০৩.১৫.০০.০১২.২০১২-১০০(সং) and ০৫.২৭৪.৩০৩.১৫.০০.০১২.২০১২-১০১(সং) both dated 07.07.2012 directly requested Commissioner, Dhaka Division, Dhaka to publish notification in the official gazette in respect of the lands in the said acquisition proceedings. The respondent in the affidavit-in-opposition further asserts that in view of section 8 of General Clauses Act, 1897, section 16 of the said Act, 1948 as well as section 47 of the Acquisition and Requisition of Immovable Property Ordinance, 1982, the proceedings of the said L/A cases are alive till date and further step for completing the acquisition process can be taken ahead, and the petitioners do not have any right to get the property in question released. The respondents also assets that for cancellation of mutation, the petitioner has alternative remedy by way of appeal under section 147 of the State Acquisition & Tenancy Act, 1950, in view of which the above writ petition is not maintainable. The respondent prays for discharge of the Rule.

6. The petitioners filed an affidavit-in-reply dated 14.03.2018 against the affidavit-in-opposition of the respondent. The petitioners in the reply dated 14.03.2018 states that the requiring body, i.e., Water Development Board on record has admitted that the land in question is no more require for them. The petitioner in the affidavit-in-reply also states that section 47 of the Acquisition & Requisition of Immovable Properties Ordinance, 1982 provided that after cessation of the said Emergency Acquisition of Property Act, 1948, all proceedings and matters including all notices and orders relating to acquisition of any property under the said Act, 1948 shall continue as if the said Act, 1948 were not ceased to have effect. So in respect of pending proceedings, the said Act, 1948 was continuing on the strength of section 47 of the said Ordinance, 1982. Section 50 of the স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল আইন, ২০১৭ has repealed the said Ordinance, 1982 and as such the said section 47 of the Ordinance, 1982 has also been repealed. Section 50 of স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল আইন, ২০১৭ has saved pending proceeding under the said Ordinance, 1982. But section 50 of স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল আইন, ২০১৭ has not saved the pending proceedings under the said Act, 1948. No provision of the said স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল আইন, ২০১৭ states that the proceeding initiated under the said Act, 1948 shall continue even after repeal of section 47 of the said Ordinance, 1982. The petitioners submit that the said Act, 1948 no more survives after the promulgation of the said Act, 2017 and as such the proceeding in question as well does not have any activity of this reason as well.

7. Mr. Ahsanul Karim and Mr. Khairul Alam Chowdhury, Advocates appearing for the petitioners submitted that the Divisional Commissioner, Dhaka vide Memo No. ০৫.৪১.৩০০০০.০১০.১৪.০০১.১৬-৬০(সং) dated 30.05.2017 directed the respondent to cancel the L/A case in question simply because the Divisional Commissioner, Dhaka found that the proceeding of the said L/A case in question does not have any existence or activity, and as such the respondent is liable to comply with decision of the Divisional Commissioner, Dhaka; that the proceeding of the said L/A case in question was initiated under the said Act, 1948, which ceased to have effect after 34 years from the promulgation of the said Act, 1948, but after cessation of the said Act, 1948, the proceeding initiated there under continued to survive as if the said Act, 1948 were not ceased on the strength of section 47 of the Ordinance, 1982; however, when section 47 along with all other provisions of the said Ordinance, 1982 was repealed by the Act, 2017, section 50 of the said Act, 2017 did not save the proceedings initiated under the said Act, 1948 and for this reason, as Mr. Karim submits,

the proceeding of the L/A case in question does not have any activity as on today. He submits that the Rule be made absolute for these reasons.

8. Mr. Md. Mokleshur Rahman, Deputy Attorney General appearing for respondent submits that once a L/A proceeding is initiated, then such L/A proceeding can never be cancelled, neither does the Government have any authority to cancel the L/A proceeding initiated under the said Act, 1948. Mr. Rahman further submits that section 47 of the said Ordinance, 1948 gave lifeblood to the proceeding in question even after the said Act, 1948 ceased to have effect. Again, Mr. Rahman, submits that in view of section 16 of the said Act, 1948 read with section 8 of the General Clauses Act, 1897 the proceeding of the said Act is still surviving. Therefore, as Mr. Rahman submits the Rule is liable to be discharged because no proceeding once initiated under the said Act, 1948 can be cancelled.

9. Perused the affidavits along with the documents submitted by the parties. Heard the learned counsels appearing for the petitioner as well as the respondent.

10. We find that the L/A case in question, i.e., the L/A Case Nos. 12/1970-71 and 13/1970-71 were initiated under the (Emergency) Requisition of Property Act, 1948 (the Act, 1948). The said Act, 1948 was a temporary Act of Parliament. Section 1(4) of the said Act, 1948 provides that the said Act, 1948 shall remain in force for a period of 34 years. The said Act, 1948 came into force with effect from 16th August 1948 as Dhaka Gazette Extra of 16th August 1948 published on the strength of section 1(3) of the said Act, 1948 brought the said Act, 1948 into immediate effect on publication of the said official gazette. Therefore, the said Act, 1948 ceased to have effect after 34 years, i.e., from 16th August 1982. Hence, the said Act, 1948 having expired with effect from 16th August 1982, the said Act, 1948 ceased to exist with effect 16th August 1982.

11. The consequence of cessation of a temporary Act by efflux of time is articulated by Indian Supreme Court in the case of *S. Krishnan v. State of Madras* reported in AIR 1951 S.C. 301 (at paragraph No. 10) as follows:

“The general rule in regard to a temporary statute is that, in the absence of special provision to the contrary, proceedings which are being taken against a person under it will *ipso facto* terminate as soon as the statute expires (Craies on Statutes, Edn. 4, p. 347).”

12. In another Indian case of *Ram Chandra v. State of Rajashtan* reported in 1972 CrL. L. J. 1386, Rajashtan High Court relying on the decision of Indian Supreme Court of AIR 1951 SC 301 held that –

As a general rule and unless it contains some special provision to the contrary, after a temporary Act expires no proceedings can be taken upon it and it ceases to have any further effect. Therefore, offences committed against temporary enactments have to be prosecuted and punished before the Act expires and as soon as the Act expires, any proceedings which are being taken against a person will *ipso facto* terminate.

13. Likewise, in a Full Bench decision of the Calcutta High Court, reported in *Rabindra Nath v. Gour Mondal*, AIR 1957 Cal 274 (FB). It was laid down:

“Ordinarily, no action can be taken under a temporary statute after it has expired and all proceedings pending at the date of its expiry terminate automatically. But there may be provision to the contrary in the Act itself. And it has to be seen whether it contained any provisions indicating an intention that even after its expiry it would remain alive for certain purposes.”

14. In another Fully Bench decision of the same High Court in *Tarak Chandra v. Ratan Lal*. Air 1957 al 257 (FB) it has been observed:

The general rule is that unless it contains some special provision to the contrary a temporary Act ceases to have any further effect after it has expired. No proceedings can be taken under it any longer and proceedings already taken and pending terminate automatically as soon as it expires.”

15. No provision of the said Act, 1948 provides that the proceeding pending under the said Act, 1948 shall continue after cessation of the said Act, 1948. Hence, in normal course of action the said L/A proceedings initiated under the said Act, 1948 were supposed to terminate/determined/ceased to exist with effect from 16th August 1982. But before 16th August 1982, the Acquisition & Requisition of Immovable Property Ordinance, 1982 (the Ordinance, 1982) came into being on 13th April 1982. Section 47 of the said Ordinance, 1982 saved the proceedings initiate under the said Act, 1948 as if the said Act, 1948 were not expired so far the proceedings already initiated under the said Act, 1948 are concerned. Section 47 of the said Ordinance, 1982 reads as follows:

“47. Special savings relating to expired EB Act XIII of 1948- Notwithstanding the cessation of the Emergency Requisition of Property Act, 1948, on the expiry of the period of its operation, all proceedings and matters, including all notices, notifications, and orders, relating to requisition or acquisition of any property or compensation or award in respect of any property requisitioned or acquired and all applications and appeals pending before any authority, arbitrator or court under that Act shall be continued, heard or disposed of as if that Act had not ceased to have effect and were continuing in operation.

16. Therefore, even after expiry of the said Act, 1948, the said L/A proceedings were surviving and continuing by dint of section 47 of the said Ordinance, 1982, and the said L/A proceedings were continuing under the said Act, 1948 as if the said Act, 1948 were not ceased so far the said L/A proceedings are related.

17. Therefore, the said L/A proceedings were continuing only on the strength of the said section 47 of the said Ordinance, 1982. But section 50 of স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল আইন, ২০১৭ (The Act, 2017) repealed the said Ordinance, 1982 with effect from 21st September, 2017. Therefore, section 47 of the said Ordinance, 1982 has been repealed with effect from 21st September, 2017. Hence, the buttress, i.e., the said section 47 of the Ordinance, 1982, upon which the said L/A proceeding was hinging on, was removed. Therefore, unless any provision of the said Act, 2017 saves the said L/A proceedings, on repeal of the said section 47 of the Ordinance, 1982, the said L/A proceedings fall on the ground.

18. Section 50 of the said Act, 2017 saves only the proceedings initiated under the said Ordinance, 1982. Section 50 of the said Act, 2017 reads as follows:

“৫০। রহিতকরণ ও হেফাজত।- (১) Acquisition and Requisition of Immovable Property Ordinance, 1982 (Ordinance No. II of 1982), অতঃপর উক্ত অধ্যাদেশ বলিয়া উল্লিখিত, এতদ্বারা রহিত হইবে।

(২) উক্ত অধ্যাদেশ রহিতকরণ সত্ত্বেও উহার অধীন-

(ক) কৃত কোন কাজ-কর্ম ও গৃহীত কোন ব্যবস্থা বা কার্যধারা এই আইনের অধীন কৃত বা গৃহীত বলিয়া গণ্য হইবে;

(খ) প্রদত্ত সকল নোটিশ, বিজ্ঞপ্তি, আদেশ, ক্ষতিপূরণ বা রোয়েদাদ এই আইনের অধীন প্রদত্ত নোটিশ, বিজ্ঞপ্তি, আদেশ, ক্ষতিপূরণ বা রোয়েদাদ বলিয়া গণ্য হইবে; এবং

(গ) কোন কর্তৃপক্ষ, আরবিট্রেটর এবং আরবিট্রেশন আপিলেট ট্রাইব্যুনাল সমীপে কোন কার্যধারা নিষ্পত্তাধীন থাকিলে, নিষ্পত্তি না হওয়া পর্যন্ত, উহা এমনভাবে চলমান থাকিবে যেন উক্ত অধ্যাদেশ রহিত হয় নাই।

19. On plain reading of section 50 of the said Act, 2017 we find that section 50 saves only the proceedings or actions taken under the Ordinance, 1982. Section 47 of the said Ordinance, 1982 never stated that after expiry of the said Act, 1948, the said proceedings initiated under the said Act, 1948 shall be deemed to be continued under the said Ordinance, 1982. Rather section 47 of the said Ordinance, 1982 stated that after expiry of said Act, 1948, the proceeding initiated under the said Act, 1948 shall continue as a proceeding under the said Act, 1948. Therefore, by dint of section 47 of the said Ordinance, 1982, the proceedings in question were continued as a ongoing proceeding under the said Act, 1948. But section 50 of the said Act, 2017 did not save the proceedings initiated under the said Act, 1948 and neither did section 50 of the said Act, 2017 save the proceedings of L/A cases, which are deemed to continue as a proceeding under the said Act, 1948 on the strength of section 47 of the said Ordinance, 1982. Hence, the said L/A proceedings in question, which were initiated under the said Act, 1948 have automatically been terminated or ceased to exist with effect from 21st September 2017, when the said section 47 of the said Ordinance, 1982 was repealed.

20. Now we will consider at what stage the said L/A proceedings in question was at the relevant date of repeal of the said section 47 of the said Ordinance, 1982 on 21st September, 2017.

21. The respondent itself vide Memo No. এল.এ. কেস নং ১২/৭০-৭১-২৭৮(২) dated 06.10.2016 (Annexure-G of the writ petition) informed the Divisional Commissioner, Dhaka recommended as follows:

“৩। নথি পর্যালোচনায় প্রাপ্ত তথ্য নিম্নরূপ

ক) (১) চূড়ান্ত প্রাক্কলন নথিতে নেই, (২) ৫(৫) ধারার প্রতিবেদন নথিতে নেই, (৩) ৫(৭) ধারার নোটিশ নথিতে নেই, (৪) প্রশাসনিকা অনুমোদনপত্র নথিতে নেই, (৫) প্রস্তাবপত্র নথিতে নেই, (৬) জেলা ভূমি বরাদ্দ কমিটির অনুমোদন নথিতে নেই, (৭) স্বাক্ষরিত দাগসূচি নথিতে নেই, (৮) লে-আউট প্ল্যান নথিতে নাই। উল্লেখ্য, দখল হস্তান্তরের সিডিউলে সিএস দাগ উল্লেখ করে ৯.১১ একর জমিকেও দখল হস্তান্তর করা হয়েছে।

খ) (১) ৫(১) ধারার নোটিশ আছে, (২) ৫(৩) ধারার নোটিশ আছে, (৩) অতীম প্রদানের নোটিশ আছে, (৪) অর্থ জমাধানের চালান আছে, (৫) স্বাক্ষর বিহীন দাগসূচি আছে, (৬) এল এ প্ল্যান্ট আছে, (৭) সাময়িক প্রাক্কলন আছে ও (৮) দখল হস্তান্তর পত্র আছে।”

৬। সম্পত্তি (জরুরী) হুকুম দলখ আইন, ১৯৪৮ এর ৫(৭) উপ-ধারায় অধিগ্রহণকৃত জমি গেজেট আকারে প্রকাশের নির্দেশনা রয়েছে। কিন্তু ১২/৭০-৭১ নং এল এ কেসের সম্পত্তি গেজেট প্রকাশিত না হওয়ায় সংশ্লিষ্ট আইনের ৫(৭) উপ-ধারার নির্দেশনা সম্পাদিত হয়নি। যেহেতু আর এর রেকর্ড ব্যক্তি মালিকানায়, প্রত্যাশি সংস্থা কর্তৃক প্রস্তাবিত জমি ব্যবহৃত হচ্ছে না এবং গেজেট প্রকাশিত হয়নি, সেক্ষেত্রে ১২/৭০-৭১ নং এল এ কেস বাতিল করে ক্ষতিগ্রস্থদের মাঝে বিতরণকৃত ১১,১৬৭.০০ (এগার হাজার একশত সাতষট্টি) টাকা সুদসহ পিডি আর এ্যাক্ট ১৯১৩ মোতাবেক আদায় করা যেতে পারে।”

22. Further, the requiring body, i.e., Bangladesh Water Development Board by its Memo No. L/21/1788 dated 04.12.2016 (Annexure-I of the writ petition) informed the respondent that the lands in question the said L/A case are no more required. In turn the respondent vide its Memo No. এল এ কেস নং ১২/৭০-৭১-৩৪৪(সং) dated 22.12.2016 (Annexure-J of the writ petition) informed the Divisional Commissioner of Dhaka Division that the requiring body does not require the said land in question. We herein reproduce the relevant information given by respondent in the said Memo dated 22.12.2016 as below:

“যেহেতু সরকারী নির্দেশে প্রকল্পটির বাস্তবায়ন কাজ বন্ধ হয়ে গিয়াছে সেহেতু এল.এ. কেস নং ১২/৭০-৭১-এ অধিগ্রহণকৃত ৯.১১ একর জমি অব্যবহৃত থেকে যায়। তৎপরবর্তীতে ১৯৮৫-১৯৮৬-১৯৮৭ ইং সালে উক্ত অব্যবহৃত ৯.১১ একর জমি

ভূমি অধিগ্রহণ আইননুযায়ী ঢাকা পওর বিভাগ-১, পাউবো, ঢাকা কর্তৃক জেলা প্রশাসক, মাণিকগঞ্জ এর নিকট সমর্পণ করা হয়। ভবিষ্যতে অধিগ্রহণকৃত সম্পত্তি প্রত্যাশী সংস্থার প্রয়োজন নাই।”

23. The respondent earlier vide Memos dated 07.07.2012 (Annexures-D & D(1) of the writ petition) requested Commissioner of Dhaka Division to publish gazette notification. But we found that till date or at least on/or before 21.09.2017 no gazette notification under section 5(7) of the said Act, 1948 has been published. Therefore, we are of the view that after repeal of section 47 of the said Ordinance, 1948 with effect from 21.09.2017, there is no scope to publish any gazette notification under the said section 5(7) of the said Act, 1948, because as we have observed above the L/A proceeding became non-est with effect from 21.09.2017 when the said section 47 of the said Ordinance, 1948 was repealed.

24. Another important aspect is that section 5(6) of the said Act, 1948 imposes a mandatory requirement of obtaining decision of the Government for acquisition of the property in question and such decision is final. Admittedly there is no report of Deputy Commissioner as required under section 5(5) of the said Act, 1948. It is also admitted position that there is no decision of the Government for acquisition of the property in question. The respondent in its affidavit-in-opposition dated 06.03.2018 (paragraph 10) stated that “it needs to be stated here that Section 5(5) of the said Act, 1948 provides for sending the case by the Deputy Commissioner to the Government for final decision whenever any objection was raised and since no objection was raised against the L/A proceedings, the Deputy Commissioner sent the case for publishing gazette notification as per section 7 of the said Act”. But having read the said section 5 of the said Act, 1948 along with other provisions of the said Act, 1948, we find that there is no provision under which Deputy Commissioner, i.e., respondent or any other authority except the Government can take decision of acquisition of property under the said Act, 1948. Only the decision of the Government for acquisition is final. Hence, the proposition of the respondent that since there is no objection against the acquisition, the respondent can take decision to acquire the property is fallacious. Therefore, we are of the view that there being no decision of the Government for acquisition of the property in question, there is no valid acquisition of the property and in the meantime the said proceeding having become non-est due to repeal of the said section 47 of the said Ordinance, 1982, there is no further scope to take decision for acquisition of the property.

25. Therefore, we find that the Divisional Commissioner rightly found that there is no proceeding (কার্যক্রম) of the said L/A Case and as such the Divisional Commissioner rightly vide the Memo dated 30.05.2017 (Annexure-A of the writ petition) directed respondent to cancel the said L/A proceeding.

26. In view of the above, we find merit in the Rule. Hence, the Rule is made absolute. Hence, the action of the respondent in failing to cancel the Land Acquisition case No. 12/1970-71 pending before the respondent in compliance of the decision of Division Commissioner, Dhaka as evinced in Memo No. ০৫.৪১.৩০০০.০১০.১৪.০০১.১৬-৬০(সং) dated 30.05.2017 of Divisional Commissioner, Dhaka (Annexure-A) is hereby declared to have been done without lawful authority and is of no legal effect. Further, the respondent is also hereby directed to cancel the Land Acquisition Case No. 12/1970-71 pending before the respondent in compliance of the decision of Divisional Commissioner, Dhaka in Memo No. ০৫.৪১.৩০০০.০১০.১৪.০০১.১৬-৬০(সং) dated 30.05.2017 of Divisional Commissioner, Dhaka (Annexure-A).

27. Communicate the judgment at once.