

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. 3011 OF 2017

IN THE MATTER OF

An application under Article 102 of
the Constitution of the People's
Republic of Bangladesh

-AND-

IN THE MATTER OF:

Md. Khairul Islam

... Petitioner

-Versus-

Government of the People's Republic
of Bangladesh and others

... Respondents

Mr. Gazi Mustaque Ahmed, Advocate

.....For the petitioner

Mr. Md. Mizanur Rahman Khan, Adv.

..... For the respondents No. 11-14

The 05th day of December, 2023

Present:

Mr. Justice J.B.M. Hassan

and

Mr. Justice Razik-Al-Jalil

J.B.M. Hassan, J:

The above-mentioned writ petition has been filed challenging the judgment and decree dated 12.01.2016 passed by the learned Judge, Land Survey Tribunal, Khulna in Land Survey Tribunal Suit No. 2223 of 2013.

Due to non existence of appellate forum at the relevant time of passing the decree, the petitioner could not prefer appeal challenging the said judgment and decree. Thus, having no alternative forum the

petitioner filed this writ petition challenging the said judgment and decree and obtained the present Rule Nisi. Now, by the State Acquisition and Tenancy (Amendment) Act, 2023, the appellate forum has been established and on 23.08.2023 the name of the Land Survey Appellate Tribunal, has been Gazetted. In the circumstances, this Court passed a judgment and order on 04.12.2023 analogously disposing of the Writ Petitions No. 5135 of 2018, 12559 of 2022, 11772 of 2022, 3743 of 2018, 12797 of 2022, 16281 of 2016, 2210 of 2022 and 7203 of 2022 allowing the respective writ petitioners to prefer appeals before the newly established Land Survey Appellate Tribunals of the respective districts with a direction to the Land Survey Appellate Tribunal to consider their appeals and applications for condonation of delay, if filed, in accordance with section 14 read with section 29 of the Limitation Act.

In the said judgment and order dated 04.12.2023 this Court observed as under:

“From the above order, it is apparent that due to non existence of the Land Survey Appellate Tribunal, the Apex Court extended the force of order of status quo till 03 (three) months from the date of establishment of the said Appellate Tribunal. But here in these matters, 3 months limitation period have already been passed from the date of establishment of appellate forum. Yet on

identical circumstances, we consider that due to non existence of Land Survey Appellate Tribunal, the writ petitioners could not challenge the impugned judgment and decree or order and this situation led them to file writ petitions obtaining Rules Nisi in their respective writ petitions. Thus, they have remained under the litigations before this Court so long.

Now, since the appellate forum has been established, the petitioners are at liberty to prefer the appeal.”

In view of the above-mentioned judgment and order dated 04.12.2023 the Rule Nisi issued in the present writ petition is disposed of with the following directions:

- (i) The petitioner is at liberty to prefer appeal before the Land Survey Appellate Tribunal with an application for condonation of delay and, if so filed, the Appellate Tribunal shall consider the application as well as the appeal in accordance with section 14 read with section 29 of the Limitation Act.
- (ii) The petitioner and the respondents are at liberty to take back all the original certified copies annexed with the respective writ petitions or affidavits in opposition or application(s) or affidavit(s) on furnishing

photocopies thereof duly attested by the respective learned Advocates.

- (iii) The interim order of stay passed by this Court at the time of issuance of the Rule, be extended for further 4(four) months from date or until filing the appeal, whichever is earlier.

Razik-Al-Jalil, J:

I agree.