

In the Supreme Court of Bangladesh
 High Court Division
 (Special Original Jurisdiction)
Present
Justice Md. Habibul Gani
And
Justice Sk. Tahsin Ali

Writ Petition No. 9286 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:

Govt. of Bangladesh represented by the
 Deputy Commissioner, Narsingdi,
 District- Narsingdi.

..... Petitioner

Vs.

Md. Osman Mia being died his legal
 heirs.

..... Respondents

Mr. J.R. Khan Robin, DAG with
 Mr. Md. Osman Chowdhury, DAG with
 Mr. Kamrunnahar Tamanna, AAG and
 Mr. Ahmad Musanna Chowdhury, AAG
 For the petitioner
 Mr. Md. Adnan Sarker, Advocate
 for the respondents
 Mr. M. Mushfiqur Rahman, Advocate
 for the respondent Nos. 1(a) to 1(e)

Heard on: 10.12.2025 and
Judgment on: 14.12.2025

Sk. Tahsin Ali, J:

On an application under Article 102 of the Constitution of the
 People's Republic of Bangladesh filed by the petitioner, a Rule Nisi was
 issued calling upon the respondents to show cause as to why the
 impugned order No. 4 dated 03.09.2015 passed by the District Judge,
 Narsingdi in Arpito Appeal Tribunal Case No. 01 of 2015 rejecting

application filed under Section 25 of the Arpito Sampatti Prattarpan Ain for condonation of delay of 240 days in filing the appeal arising out of the judgment and decree dated 30.03.2014 passed by the Senior Assistant Judge, Narsingdi Sadar, Narsingdi and Arpito Sampatti Prattorpan Additional Tribunal, Narsingdi in Arpita Sampatti Prattarpon Case No. 17 of 2012 partly allowing the petition and thereby to release/prattarpan the case property from the Arpito Sampatti list should not declared to have been passed without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this court may seem fit and proper.

At the time of the issuance of the Rule, operation of the impugned order No. 4 dated 03.09.2015 passed by the District Judge, Narsingdi in Arpito Appeal Tribunal Case No. 01 of 2015 was stayed for a period of 6(six) months.

The respondent as plaintiff filed a Arpito Sampatti Prattarpon Case No. 17 of 2012 before the Arpito Sampatti Prattarpon Tribunal, Narsingdi on 30.07.2012 for declaration of title and for khash possession. After hearing the parties learned trial court was pleased to partly allow the case and thereby release the property from the Arpito Sampatti Prattarpan list in favour of the plaintiff by judgment and decree dated 30.03.2014.

Being aggrieved and dissatisfied with the judgment and decree dated 30.03.2017 the petitioner as appellant preferred an appeal being Arpito Sampatti Prattarpan Appeal No.01 of 2015 along with an

application under Section 25 of the Arpito Sampatti Prattarpan Ain, 2001 for condonation of delay of 240 days in filing the appeal. After hearing the parties the learned Appellate Court was pleased to reject the application without condone the delay in filling the appeal and thereby affirming the judgment and decree dated 30.03.2014 passed by the Arpito Sampatti Prattarpon Tribunal, Narsingdi in Arpito Sampatti Prattarpon Case No. 17 of 2014.

The case of plaintiff in short is that the owner of the suit land under C.S. Khatian No.451, Plot No. 1357 measuring land 1.50 acres under Mouza Shekerchar the plaintiff filed a suit being Civil suit No.22 of 1948 before the learned Munsiff Court, Narayanganj for recovery of outstanding rent of the land. In the said case an order was passed for auction of the suit land. One Gyan Chakrabarti contested in the auction and got it. He filed an execution Case No.6/56 and got possession of the land through Court and the land was recorded in his name. That very Gyan Chandra Chakrabarti died leaving only a son Kanai Lal Chakrabarti as heir and recorded the land under R.S. Khatian No.821 in his name. Kanai Lal sold 00.3750 decimal land to Subed Ali on 12.04.78 by registered deed No. 4027 and also sold on 17.04.78 vide deed No.4170 to Subed Ali land measuring 00.3750 decimals. Subed Ali Sold 75 decimal of land to one Tarak Nath by registered deed No. 828 dated 25.01.982. Taraknath sold the land (75 decimals) to Osman Mia by registered deed No. 7225 dated 3.7.1985. Kanai Lal Chakrabarty sold 75 decimals of land to one Nurul Huda vide deed No. 4026 dated 12.04.78

and deed No. 4209 dated 11.04.78. Nurul Huda sold 75 decimals of land to Chan Mia vide deed No. 872 dated 25.1.82. Chan Mia sold the said 75 decimals of land to Osman Mia vide deed No. 7226 dated 3.7.1985. Since then Osman Mia has been enjoying the possession of the land. The respondent as plaintiff filed Civil Suit No.31/88 before the Assistant Judge, Narsingdi for declaration of title against the Deputy Commissioner, Narayangonj when the land came in census list as Vested Property and the respondent got the decree on 6.11.88. As per the vertict of the decree the respondent prayed before the Deputy Commissioner, Narayangonj to release the land from the Vested Property list on 8.5.94. The land was released from the Vested Property list and he mutated the land in his name by mutation Case No.475/04-05 dated 11.10.2004 appertaining to mutation khatian no.821/1, Jote No. 1509 and paid taxes on 12.10.2004 and he is in possession by erecting Tinshed hut and the A.D.C gave permission to make pucca construction. The respondent filed the suit when the land was enlisted in the vested property.

The defendant as petitioner Government of Bangladesh represented by the Deputy Commissioner, Narsingdi contested the suit by submitting written statement stating that the owner of the suit land was Gayan Chakroborty and the land was recorded in his name in S.A. Khatiana no.405 under shekherchar mouza. Gayan Chandra Chakroborty went to India without transferring his land to anybody during the Indo-Pak war in 1965 with his family members and used to live there permanently and got citizenship there as such the property left by his heir was declared as vested property and enlisted in the vested property

list by V.P. Case No. 31/78 subsequently Deputy Commissioner, Narsingdi was leased out the land to get govt revenue and the Govt. has been getting lease money. The government is in possession of the land. The deeds mentioned in the plaint are forged as such he cannot get the relief to release the property from vested property list. Hence this case was arisen.

Learned Deputy Attorney General Mr. J. R. Khan Robin with Mr. Md. Osman Chowdhury, Deputy Attorney General with Mr. Kamrunnahar Tamanna, Assistant Attorney General with Mr. Ahmad Musanna Chowdhury, Assistant Attorney General appeared for the State/petitioner while the learned advocate Mr. Md. Adnan Sarker appeared for the respondents.

Mr. J. R. Khan Robin learned Deputy Attorney General appeared on behalf of the state and submitted that, under Section 25 of the Arpita Sompatti Prattarpon Ain, 2001 that the Tribunal or Appellate Tribunal for ends of justice and under special circumstances, is empowered to take any kind of decision according to the merits of the case. More so, they referred to the judgment in Ramdeb Chandra Das and others Vs. Government of the Peoples Republic of Bangladesh and others passed in Writ Petition No. 12996 of 2016 on 27.05.2025, drew our kind attention that though the petitioners failed to approach the tribunal in due course because of their lake of knowledge about publication and inclusion the property in question in 'ka' schedule of the gazette notification, they should not be left without relief because of forum crisis. He further submits that this division as higher forum may direct to the subordinate

court or tribunal to adjudicate the matter under subjudiced before it. He also referred to the case of Md. Abdul Hye Vs. Govt. of Bangladesh in Writ Petition No. 8932 of 2011 the contended of the said judgment “The Limitation Act should be made applicable in filing application under Section 10(1) of the Act” which on appeal, has been expunged by the Appellate Division in Civil Petition for Leave to Appeal No. 2310 of 2018 by observing that “Section 10(1) and 10(1ka) of the Act, 2001 supplied necessary provisions regarding period of limitation in filing the application under the Act, 2001 with the heading “প্রত্যর্পণযোগ্য সম্পত্তি প্রত্যর্পণ বা অবমুক্তির আবেদন, রেজিস্ট্রি, রায় ও অনুলিপি” indicates that the law itself is enough within its intrinsic objectives imperative to be followed. Herein in this case, the petitioners candidly admitted that they had no knowledge of gazette notification included their property in the “ka” list.

On the other hand, Mr. M. Mushfiqur Rahman, learned Advocate, appeared on behalf of the respondent and submitted that an application for substitution on behalf of the heirs of respondent No. 1 was filed before the Hon’ble High Court Division, which was allowed and accordingly the heirs of respondent No. 1 were duly substituted as respondent Nos. 1–10.

At the time of hearing of the instant writ petition, a written statement was filed on behalf of the respondent, submitting that the learned Tribunal, while allowing the case of the respondent-plaintiff, found that:

“সরকার পক্ষের উক্ত দাবীর সমর্থনে কোন স্বাক্ষর প্রমাণ আদালতের সামনে উপস্থাপন করা হয়নি”

OPW-1 জেরাকালে স্বীকার করেন জ্যানচন্দ্র চক্রবর্তী কোন তারিখে ভারত চলে যায় তা জানা নাই এবং এরকম কোন ডকুমেন্ট দাখিল করেননি এবং এখানে কোন জেরায় উল্লেখ করেন প্রদর্শনী 'ক' সিরিজে চিহ্নিত নথির ৫ নম্বর পৃষ্ঠার ১৯ নম্বর দফায় উল্লেখ আছে যে জ্যানচন্দ্র বাংলার ১৩৭২ সনে এদেশে নিজ বাড়িতে মারা যায় কানাই নামে ১ পুত্র রেখে মারা যায় এবং তারা অত্র ইউনিয়নের স্থায়ী বাসিন্দা।” and that in the findings of facts of the Rule in the instant Writ Petition. He further submits that the tribunal decreed the suit on 03.03.2014 and appeal was filed on 23.02.2015 and thereby there was a delay of 240 days and since this is a special law and in view of section 3 of the Provision of this Act should shall prevail over all other act and the limitation provided for filling appeal under Sub- section (4) of Section 18 of the Arpitta Shompatti Prottarpon Ain, 2001, it has been provided as under:

“উপ-ধারা (২) এ উল্লিখিত সিদ্ধান্ত বা রায় প্রদানের ৪৫ (পঁয়তাল্লিশ) দিনের মধ্যে আপীল দায়ের করিতে হইবে এবং এই সময়সীমা বৃদ্ধি করার ক্ষেত্রে Limitation Act, 1908 (IX of 1908) এর Section 5 প্রযোজ্য হইবে না।”

but the appeal has been filed beyond the statutory period of limitation and section 5 of the Limitation Act having not been made applicable in filling appeal the learned Appellate Tribunal correctly rejected the appeal and the impugned Judgment having not suffered from any illegality. He also submits that Section 25 of the Arpitta Shopatti Prottarpon Ain has no application in filling the appeal or considering limitation in filling appeal because the Section 25 empowered the court to dispose of the appeal by adopting the procedure in order to giving justice where there is no sufficient provision of law and as Section 18 has clearly exclude Section 5 of the Limitation Act and the same specific

Provision, Section 25 will not come to any help. He further submits that in another decision of High Court Division in the case of Government - Vs- Secretary of Land reported in 29 BLC (HCD) page 35 discharged the Rule in Writ Petition filed against the Judgment of Appellate Tribunal which was dismissed as being time barred and the Hon'ble High Court Division discharged the Rule on the finding that the Appellate Tribunal has correctly dismiss the appeal as section 5 of the Limitation Act, is not applicable in Arpitto Shompatti Prottarpon Ain. He concludes his submissions upon assertion that the Rule bears no merit and ought to be discharged for ends of justice.

We have heard the submissions of the learned Deputy Attorney General and perused the relevant documents. In the above judgment and submissions of the leaned DAG we did not consider their contentions, as because they referred in this writ petition, the petitioner given any chance to address tribunal or appellate tribunal. Hence the Hon'ble High Court Division passed said judgment to condone the limitation period for adjudicating the grievance of the petitioner but the instant case is different than that of referred case. In the instant case, the petitioner was fully aware of the 'Kha' list of the schedule property and accordingly, the petitioner herein the "Deputy Commissioner, Narsingdi" properly contested the Arpito Sompatti Prottarpon Tribunal against the respondent but subsequently did not succeed. They ought to have filed an appeal before the Arpito Sompatti Prattarpon Appellate Tribunal within 45 days of receiving the certified copy of the judgment, however they failed to do so. Consequently, the Appellate Tribunal rightly did not

consider the merit of the case summarily rejected the appeal filed by the petitioner on the ground of limitation.

We have gone through the writ petition, the written statement of the respondents and the referred judgment. It is our considered view that the Rule bears no merit and there is no legal basis to interfere with the judgment of the Arpito Sompatti Prattarpon Appellate Tribunal.

In the result, the Rule is discharged and the judgment and decree dated 30.03.2014 passed by the Arpito Sompatti Prattarpon Additional Tribunal, Narsingdi Arpito Sampatti Prattarpon Case No. 17 of 2014 is hereby upheld.

The order of stay and status-quo granted earlier by this court is hereby recalled and vacated.

Send down the Lower Court Records at once.

Communicate this judgment at once.

Md. Habibul Gani, J

I agree.