

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

**Writ Petition No. 18528 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. Ahammed Ali

.....Petitioner.

-VS-

Government of Bangladesh and others

.....Respondents.

Mr. Md. Jalal Uddin, Advocate

.....for the petitioner

Mr. Tushar Kanti Roy, DAG with

Mr. Md. Salim Azad, A.G.G with

Ms. Anis ul Mawa, A.A.G

.....For the respondents.

Mr. Ashok Chandra Baishnab, Advocate

...For the respondent no.9.

**Heard and Judgment on : 10.03.2024**

**Present:**

**Mr. Justice Mustafa Zaman Islam**

**And**

**Mr. Justice Md. Atabullah**

**Mustafa Zaman Islam, J;**

By filling this writ petition, under article 102 of the Constitution of the Peoples's of Republic of Bangladesh, the petitioner challenged the legality of the judgment and decree dated 15.11.2017 decree signed on 15.11.2017 passed by the learned Judge, Land Survey Tribunal, Habigonj in Land Survey Tribunal Suit no. 182 of 2013.

The petitioners, feeling aggrieved by the Judgment and decree of the land Survey Tribunal from which no appeal as been preferred challenging the aforesaid Judgment and decree as the Land Survey Appellate Tribunal had not been established. It is apt that the Judgment and decree is appealable under the provision of section 145 (B) of the State Acquisition and Tenancy Act, 1950 against the said Judgment and decree the appeal lies before the Land Survey Appellate Tribunal.

The main contention of the Writ Petition is that the appellate forum of the said judgment and decree i.e. the Land Survey Appellant Tribunal has not be established, therefore the petitioner has/have no other alternative forum but to file this Writ Petition, hence the writ petition.

Heard the learned Advocate for the contending parties, perused the writ petition along with its annexures and other materials on record placed before us.

It transpires that the writ petition was filed on 13.12.2017 and Rule was issued on 14.12.2017. But till the filling of the writ petition, no Land Survey Appellate Tribunal was established. When it is taken up for hearing the instant Rule, in the meantime, Gazette Notification of State Acquisition and Tenancy (Amendment) Act, 2023 (Act no. XXIV of 2023) has been published for forming Land Survey Appellate Tribunal by amending section 145B of the State Acquisition and Tenancy Act, 1950, and the Government has decided to empower the District Judge as the Judge of the Land Survey Appellate Tribunal of the District and accordingly, the petitioners are at liberty to prefer an appeal before the Land Survey Appellate Tribunal as Constituted under the Act.

It appears that some factual aspects are involved with the impugned judgment and decree and the Land Survey Appellate Tribunal is the proper

forum to adjudicate the same. It also appears that till filling this Writ Petition no. Land Survey Appellate Tribunal was established, but during the pendency of the Rule the Government has established the same.

In view of the aforesaid, we are of the view that justice would be best served if without entering into the merit of the case the Rule is disposed of with directions.

Accordingly, the Rule is disposed of with the following directions:

- i) The petitioner is at liberty to file an appeal before the Land Survey appellate Tribunal, Habigonj as established by the Government.
- ii) If the petitioner intend to prefer an appeal before the Land Survey Appellate Tribunal having jurisdiction, the petitioners are directed to file such appeal within 90 (ninety) days from date.
- iii) The impugned shall remain stayed till filling of appeal by the instant petitioner within the period set out in direction no. ii) and
- iv) The parties are directed to maintain status quo in respect of possession of the land in question till filling of the appeal.

However, there shall be no order as to costs.

Communicate the Judgment and order at once.

Learned Advocate for the petitioner is permitted to take back the certified copy of the annexures replacing by the photocopies of the same.

**Md. Atabullah, J:**

*I agree.*