

In the Supreme Court of Bangladesh  
High Court Division  
(Special Original Jurisdiction)  
**Present**

**Madam Justice Kashefa Hussain**

**And**

**Madam Justice Fatema Najib**

**Writ Petition No. 10493 of 2018**

**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. Abdul Bashar Mollah

..... Petitioner.

Vs.

The Government of Bangladesh and  
others.

..... Respondents.

Mr. Gorib Newaz, Advocate

.....for the petitioner.

Mr. Noor Us Sadik Chowdhury, D.A.G

with Mr. Md. Awlad Hossain, A.A.G

with Mr. Rashedul Islam, A.A.G

... for the respondents

**Heard on: 25.04.2022, 27.04.2022,**

**16.05.2022 and judgment on: 17.05.2022.**

**Kashefa Hussain, J:**

Rule nisi was issued calling upon the respondents to show  
cause as to why a direction should not be given upon the respondents  
to take necessary steps according to the judgment and decree dated  
06.02.2017 (decree signed on 09.02.2017) passed in V.P. Appeal No.  
27 of 2016 affirming the judgment and decree dated 28.03.2016  
(decree signed on 31.03.2016) passed in Petition Case No. 572 of

2012 for redemption of the schedule property namely District Pirojpur, Police Station-Pirojpur, J.L. No. 65, Mouza-Pirojpur, S.A. Khtaian No. 15, Dag No. 1834 measuring 0.342 Shahasrangsha in favour of the petitioner and/or such other or further order or orders passed as to this Court may seem fit and proper.

The petitioner Md. Abul Bashar Mollah is the citizen of Bangladesh and the respondent No. 1 is the Secretary, Ministry of Land, Bangladesh Secretariat, Shahbag, Dhaka, respondent No. 2 is the Deputy Commissioner, Pirojpur and respondent No. 3 is the Additional Deputy Commissioner (Land Acquisition), Pirojpur.

The petitioner's case inter alia is that the petitioner is the absolute owner of the schedule property as mentioned in the cause title. The petitioner filed the Petition Case No. 572 of 2012 (VP) before the Arpitta Shampatti Pattarpon Tribunal No. 2, Pirojpur while the property was enlisted in the Gazette of Aripitta Shampatti ('Ka' list) on 24.04.2012 as Serial No. 19. After hearing both the parties the learned Tribunal by judgment and decree dated 28.03.2016 (decree signed on 31.03.2016) decreed the case in favour of the petitioner directing the government for redemption of the schedule property from the list of vested property in favour of the petitioner.

The respondent No. 2 being appellant challenging the aforesaid judgment and decree preferred the V.P. Appeal No. 27 of 2016 before the learned Arpitta Shampatti Pattarpon Appellate Tribunal, Pirojpur.

The petitioner contested the V.P. Appeal. And that after hearing both the parties the learned Appellate Tribunal by judgment and decree dated 06.02.2017 (decree signed on 09.02.2017) dismissed the V.P. Appeal and thereby affirmed the judgment and decree dated 28.03.2016 (decree signed on 31.03.2016) passed by the Arpitta Shampatti Pattarpon Tribunal, Pirojpur in Petition Case No. 572 of 2012.

After receipt of the certified copies of both the judgment and decree the petitioner repeatedly applied to the respondent No. 2 for redemption of the schedule property in his favour. Thereafter lastly on 13.09.2017 the petitioner filed an application for taking necessary steps in accordance with both the judgment of Tribunal and Appellate Tribunal. But till date the respondent no. 2 did not do the needful. That till date no steps has been taken by the respondents challenging the aforesaid judgment and decree dated 06.02.2017 (decree signed on 09.02.2017) before the Hon'ble High Court Division.

Learned Advocate Mr. Gorid Newaz along with Ms. Maksuda Akhter, learned Advocate appeared on behalf of the petitioner while learned D.A.G Mr. Noor Us Sadik Chowdhury with Mr. Md. Awlad Hossain, A.A.G along with Mr. Rashedul Islam, A.A.G appeared for the respondents.

Learned Advocate for the petitioner submits that inspite of the judgment and decree of the tribunal in favour of the decree holder

petitioner which judgment and decree including a direction to the respondents to release the property in the petitioner's favour, however the respondents till date did not take any steps to implement the judgment and decree of the tribunal. He further submits that there is nothing on record to show that the respondents ever tried to avail or resorted to the higher forum that is the High Court Division against the judgment and decree of the appellate tribunal to seek remedy. He submits that inspite of the petitioners application to the respondents which has been marked as annexure C nevertheless the respondents in complete violation of the judgment and decree of the tribunal and in complete violation of the petitioner's fundamental right refrained from implementing the direction of the tribunal and further also showed total inaction in not disposing of the application of the petitioner which is marked as annexure C. He submits that such inaction of the respondents in not implementing the judgment of the tribunal and the appellate tribunal is arbitrary and in violation of the fundamental rights of the petitioner. He concludes his submission upon assertion that therefore the Rule bears merit ought to be made absolute for ends of justice.

The respondents did not file any affidavit in opposition. Upon a query from this bench the learned D.A.G submits that there is nothing on record to show that the respondents resorted to the High Court

Division against the judgment and decree of the appellate tribunal. He however concludes that the Rule ought to be discharged.

We have heard the learned counsels from both sides, perused the writ petition and the judgment of the tribunal and also the appellate tribunal including other materials. It clearly appears that the tribunal in the operative portion of its judgment and decree dated 28.03.2016 clearly directed the respondents to release the property in favour of the petitioner. The operative partition of the tribunal is reproduced below:

*“অত্র দরখাস্ত প্রতিপক্ষের বিরুদ্ধে দোতরফা সূত্রে বিনা খরচায় মঞ্জুর করা হল।  
দরখাস্তের ক তপছিল বর্ণিত ভূমি অর্পিত সম্পত্তির তালিকা হতে অবমুক্ত পূর্বক  
প্রত্যাপনের ডিক্রী প্রদান করা হল। ডিক্রী প্রস্তুতের ৪৫ দিন পর রায় ও ডিক্রীর  
অনুলিপি ডিক্রী বাস্তবায়নের জন্য জেলা প্রশাসক, পিরোজপুর বরাবর প্রেরণ  
করা হোক।”*

It is evident that upon appeal by the respondents in the appellate tribunal the appeal was dismissed. Therefore evidently the judgment and decree including the direction of the tribunal was upheld by the appellate tribunal. Upon a query from this bench the learned D.A.G admitted that there is nothing on record to show that the respondents resorted to the High Court Division against the judgment and decree of the appellate tribunal. It also appears that the petitioner pursuant to the judgment and decree passed by the tribunal and the appellate tribunal made an application by way of annexure C to the respondent

No. 2 to implement the judgment and decree passed by the tribunals. The respondents apparently did not act upon the application nor did they refuse otherwise. Such inaction of the respondent No. 2 is not acceptable and such arbitrary non compliance with the judgment and decree of the tribunal in absence of resorting to High Court Division is also deprecated.

Under the facts and circumstances we find merits in the Rule.

In the result, the Rule is made absolute without any order as to costs. The respondent No. 2 is hereby directed to implement the direction to release the property in favour of the petitioner positively within 60(sixty) days from receiving of this judgment and order.

Communicate this judgment at once.

**Fatema Najib, J:**

I agree.

**Arif(B.O)**