

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

Present:

Mr. Justice S M Kuddus Zaman

And

Mr. Justice Md. Saiful Islam

CIVIL REVISION NO.3407 of 2010.

In the matter of:

An application under section 115(1) of the Code of Civil Procedure.

And

Rajdhani Unnayan Katripakkha  
(RAJUK)

...Petitioner

-Versus-

Md. Shahid Ullah and another

...opposite parties

Mr. Md. Aminul Islam, Advocate

...For the petitioner

No one appears

...For the opposite parties

Heard on: 09.12.2025

Judgment on: 10.12.2025.

S M Kuddus Zaman, J

This Rule was issued calling upon the opposite parties to show cause as to why the judgment and order dated 25.05.2008 passed by the learned District Judge, Dhaka in Arbitration Appeal No.68 of 2003 dismissing the appeal and affirming the judgment and order dated 07.05.2003 passed by the learned Joint District and Arbitration Tribunal, Dhaka in the Arbitration Revision No.2299 of 1990 allowing the case in part should not be set aside and/or pass such

other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioner acquisitioned 16.50 decimal land of opposite party No.1 for extension of Uttara Model Town vide L.A. Case No.02/87-88 dated 16.06.1988 under the Acquisition and Requisition of Immovable Property Ordinance, 1982 (hereafter referred to as Ordinance No.II of 1982) and awarded compensation of Tk.2,48,541.29/- at the rate of Tk.12,55,259/- per acre.

Being dissatisfied with above amount of compensation money opposite party No.1 as petitioner filed Arbitration Revision Case No.2299 of 1990 to the Arbitration Tribunal and Joint District Judge Dhaka who on consideration of submissions of the learned Advocates for the respective parties and materials on record allowed above case and enhanced above compensation to Tk.7,29,630/-.

Being aggrieved by and dissatisfied with above judgment and order of the Arbitrator opposite party No.1 as appellant preferred Arbitration Appeal No.68 of 2003 to the Arbitration Appellate Tribunal and District Judge

Dhaka who dismissed above appeal and affirmed the judgment and order of the Arbitrator.

Being aggrieved by and dissatisfied with above judgment and order of the Arbitration Appellate Tribunal above appellant as petitioner moved to this court with this petition under section 115(1) of the Code of Civil Procedure and obtained this rule.

Mr. Md. Aminul Islam learned Advocate for the petitioner submits that Ordinance No.II of 1982 was amended by Act No.20 of 1994. Section 9 of Act No.20 of 1994 amended section 31 of Ordinance No.II of 1982 and section 10 of above Act amended section 34 of Ordinance No.II of 1982 and restricted the power of Arbitrator and the Judge of the Arbitration Appellate Tribunal respectively to enhance the amount of compensation money up to 10% of the original compensation award or the award passed by the Arbitrator and no more.

Above amendments of section 31 and 34 of Ordinance No.II of 1982 came into force on 1 December, 1994. As such the Arbitrator did not have any legal competence to enhance the compensation awarded by the Deputy Commissioner by more than 10%. But the Arbitrator most

illegally crossed the limit of his jurisdiction and enhanced above compensation by more than 100%. The learned Judge of the Arbitration Appellate Tribunal utterly failed to appreciate above position of law and most illegally dismissed the appeal and affirmed the unlawful judgment and order of the Arbitrator which is not tenable in law.

Opposite parties did not enter appearance in this civil revision nor any one was found available on behalf of the opposite parties at the time of hearing of this rule although the rule appeared in the list for hearing on several dates.

We have considered the submissions of the learned Advocate for the petitioner and carefully examined all materials on record.

It is admitted that disputed 16.50 decimal land of opposite party No.1 was acquisitioned by the petitioner for extension of Uttara Model Town by L.A. Case No.02/87-88 on 16.06.1988 and opposite party No.1 was awarded compensation of Tk.2,48,541.29/-.. It is also admitted that being aggrieved by above amount of compensation money opposite party No.1 as petitioner preferred above Arbitration Revision Case to the Arbitrator and

Joint District Judge who enhanced above compensation money by Tk.4,81,088.71/- and a total amount of Tk.7,29,630/- was awarded as compensation. Above enhancement of the amount of compensation was more than 100% of the original compensation award prepared and signed by the Deputy Commissioner.

Section 9 of Act No.20 of 1994 amended section 31 of Ordinance No.II of 1982 and restricted the legal competence of an Arbitrator to enhance the amount of compensation for acquisition of land under above Ordinance not exceeding 10% of the original compensation award as prepared and signed by the Deputy Commissioner. Similarly section 10 of Act No.20 of 1984 has amended section 34 of Ordinance No.II of 1984 which provided that the Arbitration Appellate Tribunal shall not enhance the amount of compensation money as awarded by the Arbitrator by more than 10%.

Relevant parts of section 31 and 34 of Ordinance No.II of 1982 are reproduced below:

“31 In determining the amount of compensation to be awarded for any property acquired or requisitioned under this Act, the Arbitrator shall be guided by the provisions

of section 8 and 9 or 20, as the case may be  
<sup>21[:</sup>

Provided that the compensation determined by the Arbitrator in respect of each owner shall not exceed the amount specified in the award of the Deputy Commissioner by more than ten per centum"

"34 (1) An appeal shall be lie to the Arbitration Appellate Tribunal constituted under sub-section (2), against an award of the Arbitrator.

.....

(5) Where the amount of compensation determined by an Arbitration Appellate Tribunal is higher than the amount specified in the award of the Arbitrator, an additional compensation at the rate of ten per cent per annum on such additional amount shall be payable till that amount is paid or offered for payment <sup>22[:</sup>

Provided that the compensation determined by the Arbitration Appellate Tribunal in respect of each land owner shall not exceed the amount specified in the award of the Arbitrator by more than ten per centum".

Above amendments of section 31 and 34 of Ordinance No.II of 1982 came into force on 1 December 1994 long before the pronouncement of above judgment by the Arbitrator on 07.05.2003 and the impugned judgment of Arbitration Appellate Tribunal on 25.05.2008. As such above judgment of the Arbitrator was unlawful and liable to be set aside. The learned Judge of the Arbitration Appellate Tribunal did not further enhance the amount of compensation as was unlawfully awarded by the Arbitrator. But the learned Judge of the Arbitration Appellate Tribunal has most illegally affirmed above unlawful judgment and order of the Arbitrator which is not tenable in law.

Opposite party No.1 gave evidence as P.W.1 and produced photocopies of the certified copies of Arbitration Revision Case No.2004 of 1990 and Arbitration Appeal Case No.10 of 1991 to substantiate his claim for increased compensation money. On the basis of above photocopies of judgments relating to undisputed land the Arbitrator enhanced the compensation money from Tk.2,48,541/- to Tk.7,29,630/-.

Above photocopies of the certified copies of the judgments were not admissible in evidence at

the instance of P.W.1 Sohidullah. Section 31 of Ordinance No.II of 1984 provides that in determining the amount of compensation to be awarded for any property acquired under above Ordinance an Arbitrator shall be guided by the provisions of section 8 and 9 of above Ordinance. Section 8 and 9 of Ordinance No.II of 1984 are reproduced below:

"8(1) In determining the amount of compensation to be awarded for any property to be acquired under this Part, the Deputy Commissioner shall take into consideration-

(a)the market value of the property at the date of publication of the notice under section 3:

Provided that in determining such market value, the Deputy Commissioner shall take into account the average value, to be calculated in the prescribed manner, of the properties of similar description and with similar advantages in the vicinity during the twelve months preceding the date of publication of the notice under section 3;

(b)the damage that may be sustained by the person interested, by reason of the taking of any standing crops or trees which may be on

the property at the time of taking possession thereof by the Deputy Commissioner;

(c) the damage that may be sustained by the person interested, at the time of taking possession of the property by the Deputy Commissioner, by reason of severing such property from his other property;

(d) the damage that may be sustained by the person interested, at the time of taking possession of the property by the Deputy Commissioner, by reason of the acquisition injuriously affecting his other properties, movable or immovable, in any other manner, or his earnings;

(e) if as a consequence of the acquisition of the property, the person interested is likely to be compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change; and

(f) the damage that may be resulting from diminution of the profits of the property between the date of service of notice under section 6 and the date of taking possession of the property by the Deputy Commissioner.

(2) In addition to the market value of the property as provided in sub-section (1), the

Deputy Commissioner shall, in every case award a sum of [fifty per centum] on such market value in consideration of the compulsory nature of the acquisition.

9. In determining the amount of compensation to be awarded for any property to be acquired under this Part, the Deputy Commissioner shall not take into consideration-

(a) the degree of urgency which has led to the acquisition;

(b) any disinclination of the person interested to part with the property to be acquired;

(c) any damage that may be sustained by him which, if caused by a private person, would not render such person liable to a suit;

(d) any damage which is likely to be caused to the property to be acquired, after the date of service of notice under section 6, by or in consequence of the use to which it will be put;

(e) any increase to the value of the property to be acquired likely to accrue from the use to which it will be put when acquired; or

(f) any alteration or improvement in, or disposal of, the property to be acquired,

made or effected without the sanction of the Deputy Commissioner after the date of publication of the notice under section 3".

In view of above provisions to prove that the market price of disputed 16.50 decimal land was much higher than the rate of value determined by the Deputy Commissioner opposite party No.1 was required to produce the sale deeds of contiguous or similar land of twelve months preceding the date of publication of notice under section 3 of Ordinance No.II of 1982. But opposite party No.1 did not make any endeavor to produce the relevant sale deeds as mentioned above at trial to substantiate his above claim. The Arbitrator utterly failed to appreciate above provisions of law and most illegally enhanced the compensation money and passed impugned compensation award on the basis of photocopies of judgments as mentioned above and the learned Judge of the Arbitration Appellate Tribunal most illegally upheld above unlawful judgment and order of the Arbitrator which is not tenable in law.

In above view of the facts and circumstances of the case and materials on record we find substance in this civil revision and the rule

issued in this connection deserves to be made absolute.

In the result, the rule is made absolute.

The impugned judgment and order dated 25.05.2008 passed by the learned Judge of the Arbitration Appellate Tribunal Dhaka in Arbitration Appeal No.68 of 2003 affirming the judgment and order dated 07.05.2003 passed by the learned Joint District Judge and Arbitrator of the Arbitration Tribunal, Dhaka in the Arbitration Revision No.2299 of 1990 is set aside and above Arbitration Revision Case is dismissed on contest against opposite party No.1 and ex parte against the rest without cost.

Let a copy of this judgment be transmitted down to the Court concerned at once.

**Md. Saiful Islam, J**

I agree