

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

Writ Petition No. 1416 of 2019

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Anwara Begum and others, Advocate
.....Petitioners.

-VS-

Government of People's Republic of Bangladesh
and others

.....Respondents.

Mr. Md. Shakhawat H. Khan, Advocate
.....for the petitioners

Mr. Tushar Kanti Roy, DAG with
Mr. Md. Salim Azad, A.G.G with
Ms. Anis ul Mawa, A.A.G and
Ms. Nazma Afreen, A.A.G

.....For the respondents.

Heard and Judgment on 25th July, 2024

Present:

Mr. Justice Mustafa Zaman Islam
And
Mr. Justice S.M. Masud Hossain Dolon

Mustafa Zaman Islam, J;

By filling this writ petition, under article 102 of the Constitution of the Peoples's of Republic of Bangladesh, the petitioners challenged the legality of the Judgment and decree dated 03.10.2018 and decree signed on 07.10.2018 passed by the learned Judge, land Survey Tribunal, Faridpur, in Land Survey Case No. 609 of 2014.

The petitioners, feeling aggrieved by the Judgment and decree of the Land Survey Tribunal from which no appeal has been preferred challenging the aforesaid Judgment and decree as the Land Survey Appellate Tribunal had not been established. It is apt here 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 as the appellate forum of the said judgment and decree i.e. the Land Survey Appellate Tribunal has not been 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 07.02.2019 and Rule was issued on 17.02.2019. But till the filing of the writ petition, no Land Survey Appellate Tribunal was established. When it is taken up for hearing, the instant Rule, in the mean time, Gazette Notification of State Acquisition of Tenancy (Amendment) Act, 2023 (Act No. XXIV of 2023) has been published for forming Land Survey Appellate Tribunal by amending section 145 B 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 case and the Land Survey Appellate Tribunal is the appropriate forum to adjudicate the same.

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

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

- i) The petitioners are at liberty to file an appeal before the Land Survey appellate Tribunal, Faridpur to be set up by the law.
- ii) The petitioners may prefer an appeal before the Land Survey Appellate Tribunal having jurisdiction, the petitioners are directed to file such appeal within 90 (ninety) days from the date of the order.
- iii) The impugned Judgment and decree shall remain stayed till filling of an appeal by the instant petitioners within the period set out in direction no. (ii) and
- iv) The parties are directed to maintain the status-quo in respect of position and 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.

Send down the lower court's records.

S.M. Masud Hossain Dolon, J:

I agree.