

IN THE SUPREME COURT OF  
BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)  
**Writ Petition No. 8471 of 2019.**

In the matter of:

An application under article 102 (2) of the  
Constitution of the People's Republic of  
Bangladesh.

-And-

**In the matter of:**

Government of the People's Republic of  
Bangladesh represented by the Secretary,  
Ministry of Housing and Public Works.

..... Petitioner

-Versus-

Chairman, 1<sup>st</sup> Court of Settlement, Dhaka  
and others.

.....Respondents

Mr. Sukumar Biswas with  
Mr. Probir Kumar Ghosh, Advocates and  
Mr. M. Nazrul Islam Khandaker, AAG

. . . . For the petitioner.

Mr. A.F. Hassan Ariff with  
Mr. AJ Mohammad Ali, Senior Advocates with  
Mr. Khondaker Md. Khurshid Alam, Advocate

. . . .For the respondent No.2.

Present:

Mr. Justice J. B. M. Hassan  
and  
Mr. Justice Razik Al Jalil

Heard on 15.01.2024, 22.01.2024,  
29.01.2024 and Judgment on  
22.02.2024.

**J. B. M. Hassan, J.**

The petitioner, Government of the People's Republic of Bangladesh represented by the Secretary, Ministry of Housing and Public Works filed this writ petition and obtained the Rule Nisi calling upon the respondents to show cause as to why the judgment and order dated 23.07.1997 passed by the 1<sup>st</sup> Court of Settlement, Dhaka in Settlement Case No. 284 of 1995 (Ka-

31, Block-B, Mohammadpur, Dhaka) excluding the case property bearing holding No. 13/12 from the “Ka” list of the Abandoned Building, at page No. 9762(16) prepared and published in the Bangladesh Gazette (Extra-Ordinary Issue) on 23.09.1986 (as contained in Annexure-D) should not be 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.”

Relevant facts leading to issuance of the Rule Nisi are that one Ali Ahmed claiming Attorney of Tajul Islam and T.N.A. Hakim filed an application before the Court of Settlement under section 7(1) of the Abandoned Buildings (Supplementary Provisions) Ordinance, 1985 (shortly, the Ordinance, 1985) alleging that the case property bearing holding No. 13/12, Block-B under Plan No. 132/1 of 61-62 dated 21.7.1961 Mohammadpur, Dhaka (case property) was allotted to one Md. Sultan Ahmed, a non Bengali son of Mvi Bafatullah and accordingly, lease deed was executed on 23.04.1962 (registered on 24.04.1962) between the then Governor of East Pakistan as the Lessor and Sultan Ahmed as the Lessee of the case property. Subsequently, Sultan Ahmed sold the same to one Mrs. Sufia Khatoon wife of Motiul Haque executing sale deed on 27.02.1965 (registered on 20.03.1965). Mrs. Sufia Khatoon again transferred the case property to Mrs. Halima Hossain on 25.03.1972 and she again sold out the same to Tajul Islam and T.N.A. Hakim by executing a joint sale deed dated 15.08.1977. Later on T.N.A. Hakim transferred his portion to Tajul Islam by registered deed dated 11.05.1988. Thus, Tajul Islam became the absolute

owner of the case property and has been possessing the same by mutating his name under the revenue office. But, all on a sudden the owner noticed that the case property was included in the “ka” list gazetted and published under section 5(1)(b) of the Ordinance, 1985 and hence, the settlement case was filed before the 1<sup>st</sup> Court of Settlement, Dhaka to exclude the same from the “ka” list of Abandoned Buildings.

The petitioner-Government contested settlement case contending inter alia that after liberation war in 1971, Sufia Khatoon left the case property uncared for and thus, she seized to occupy, supervise and manage the case property in person at the very point of date i.e on 28.02.1972. Thereafter, the property was treated as abandoned property in accordance with the Bangladesh Abandoned Property (Control, Management and disposal) Order, 1972 (shortly, P.O 16 of 1972) and vested in the Government. Accordingly, the property was listed in the abandoned property list in accordance with section 5(1)(b) of the Abandoned Buildings (Supplementary Provisions) Ordinance, 1985 (shortly, the Ordinance, 1985) in the “Ka” list on 23.09.1986 in Bangladesh Gazette (Extra Ordinary issue and Serial No. 31 page No. 9762(16). After hearing the Settlement Case No. 284 of 1995, the 1<sup>st</sup> Court of Settlement, Dhaka by judgment and order dated 23.07.1997 allowed the case and directed to exclude the case property from “Ka” list of the abandoned building.

Inspite of the aforesaid judgment and order, there being no compliance with the direction of the Court of settlement, the heirs of Tajul Islam, namely, Nurun Nahar Islam and others filed writ petition No. 8999 of

2010 praying for excluding the case property from the “Ka” list pursuant to the judgment and order dated 23.07.1997 passed by the Court of Settlement in Case No. 284 of 1995. Ultimately, the Rule Nisi issued therein was made absolute by the judgment and order dated 13.03.2018. Against the said judgment, the Government-petitioner filed Civil Petition for Leave to Appeal (CPLA) No. 3561 of 2018 before the Appellate Division and the CPLA is now pending. During pendency of the aforesaid CPLA, the petitioner filed this writ petition challenging the very judgment and order dated 23.07.1997 passed in Settlement Case No. 284 of 1995 by the 1<sup>st</sup> Court of Settlement, Dhaka in the form of certiorari and obtained the present Rule Nisi.

The respondent No. 2 (a) to 2(e) as heirs of Tajul Islam appearing in the Rule Nisi has filed an affidavit in opposition reiterating the chain of title obtained by their predecessor from Sultan Ahmed to Tajul Islam as stated in the Court of Settlement. Thus, having title and possession, they have been possessing the case property mutating their predecessor’s name. All of a sudden, the case property having been listed as abandoned building the settlement case was filed before the Court of Settlement who ultimately allowed the case directing to exclude the case property from the abandoned buildings list. Even then, the respondents did not exclude the case property from the list which led the respondents to file writ petition No. 8999 of 2010. In the said writ petition, the High Court Division examined all the papers and being satisfied, made the Rule absolute issuing a writ of mandamus directing the respondents to exclude the property from the list.

Thereafter the writ petitioner filed CPLA No. 3561 of 2018 which is now pending.

Further contentions of this respondents are that the subject matter of the instant writ petition has already been decided by a competent writ Bench in writ petition No. 8999 of 2010 and at the instance of the Government the matter is pending before the Appellate Division. Therefore, another writ petition over the same matter is not proper in the eye of law and this may create contradictory decision over the self same matter and hence, the Rule Nisi is liable to be discharged. The Government has never taken possession of the case property. After promulgation of P.O 16 of 1972, the respondent No.2 had been in possession of the case property and his legal heirs are still in possession of the said property. Hence, the Government is not entitled to include the property in the list of abandoned properties.

Both the petitioner and the contesting respondents have also filed supplementary affidavits in support of their respective contentions.

The following submissions have been placed for consideration by Mr. M. Nazrul Islam Khandaker, learned Advocate for the petitioner:

- (a) The case schedule was government property and leased out to the lessee, Sultan Ahmed under a lease agreement and he sold the same to one Sufia Khatoon. But whereabouts of Sufia Khatoon was untraceable from 25.03.1972 and thus, the case property having been found in un-cared position, the Government treated the same as abandoned building in accordance with P.O 16 of 1972.
- (b) The settlement case was filed by one Ali Ahmmed claiming himself as Attorney of alleged lessee, Tajul Islam. Admittedly,

Tajul Islam was residing in the United Kingdom (UK). But the said power of attorney was not executed through proper channel in accordance with law and as such, there being no power of attorney at all, the application before the Court of Settlement was not filed as per law and it was not in form and so, void abinitio. Thus, the judgment of the Court of Settlement allowing the said application, on the face of it, nullity being decided on the basis of an improper application.

- (c) Admittedly the property was Government lease hold property under the lease agreement and prime condition provided in the lease deed for transferring the property, was to take sanction from the Lessor before any transfer. But without any such sanction, the purported transfers were made. There was no material as to whereabouts of Sufia Khatoon and that just relying upon a graveyard certificate issued by the graveyard in charge, the Court of Settlement allowed the case disregarding the principles laid down in the case of the Bangladesh Vs Md. Jalil and others reported in 48 DLR (AD) 10.
- (d) The order sheets of the Court of Settlement records reflect that the claimant's produced deeds were not proved before the Court of Settlement in accordance with law by producing witness and allowing the petitioner-Government to cross examine the same for testing the documents in accordance with law.
- (e) Regarding whereabouts of Non-Bengali Sufia Khatoon, the Court of Settlement came to a conclusion without any basis and as such, the impugned judgment can not sustain in the eye of law.

In support of above submissions, leaned Advocate refers to the following cases:

The case of Govt. of Bangladesh Vs. Md. Jalil and others reported in 48 DLR (AD) 10, Govt. of Bangladesh Vs. Md. Shamsulzamal reported in 48 DLR (AD) 1, Govt. of Bangladesh Vs. Ashraf Ali and another reported in 49 DLR (AD) 161, Govt. of Bangladesh

Vs. Orex Network Ltd. and others reported in X ADC (2013)1, Begum Khaleda Zia Vs. Govt. of Bangladesh reported in 63 DLR (HCD) (2011) 385, Amena Khatun Vs. Chairman, Court of Settlement and others reported in 63 DLR(AD) (2011)1, Govt. of Bangladesh Vs. Mirza Shahab Ispahani reported in 40 DLR (AD) 116, Govt. of Bangladesh and others Vs. M/S Speed bird Navigation Co. and others reported in 30 DLR (SC) 101, Govt. of Bangladesh Vs. Md. Abdul Mannan and others reported in 71 DLR (AD) 338, Govt. of Bangladesh Vs. Sinku Akramujzzman reported in 28 ALR (AD)(2023) 178, 20 ADC 78, Hazeullah and another Vs. Chairman, 1<sup>st</sup> Court of Settlement and another reported in 3 BLC (AD) 42 and unreported judgment passed in writ petition No. 2256 of 2015.”

Mr. A.F. Hassan Ariff with Mr. AJ Mohammad Ali, learned Senior Advocates for the respondent No. 2(a) to 2(c) contends as follows:

- (i) The judgment of the Court of settlement as impugned under this Rule Nisi, has already been tested in earlier writ petition No. 8999 of 2010 wherein the High Court Division examined all the title deeds and via deeds of the claimant respondents and thus after passing the said judgment making the Rule absolute, there is no scope to come to a different view by another Bench of the High Court Division under the present Rule, in contravention of the principles of res-judicata.
- (ii) Although the petitioner pointed out the condition of lease deed as to accord of previous sanction from the Lessor for transferring lease hold property but this point was not raised before the Court of Settlement and it is the Lessor who never raised the question regarding the transactions in question.
- (iii) The predecessor of the respondents, namely, Tajul Islam was all along in possession in the case property having his title deed

and transfer deeds. As such, there is no scope to declare the property as abandoned building.

- (iv) If this Division Bench intends to differ with the decision of earlier Division Bench passed in Writ Petition No. 8999 of 2010, a full/larger Bench is required to be constituted by the Hon'ble Chief Justice if the matter is referred to accordingly.
- (v) The respondents' predecessor was in possession but no notice was served. As such, the property can not be taken away from these respondents claiming abandoned building.

We have gone through the writ petition, the affidavit in opposition filed by the answering respondents No. 2(a) to 2 (e), supplementary affidavits thereto filed by both the contending parties and other materials on records as well as the cited cases.

The case property having been listed in the 'Ka' list under section 5(1)(a) of the Ordinance, 1985, one Ali Ahmed claiming himself as the attorney of the predecessor of respondents No. 2(a) to 2(c), namely, Md. Tajul Islam filed Settlement Case No. 284 of 1995 before the 1<sup>st</sup> Court of Settlement, Dhaka for releasing the said property from the Abandoned Property list. Eventually, the 1<sup>st</sup> Court of Settlement by the judgment and order dated 23.07.1997 allowed the case and thereby directed to release the property from the list. This judgment led the petitioner-Government to file this writ petition.

Admittedly, the case property was the Government property and it was initially leased out to one Sultan Ahmed on 23.04.1962, who also transferred the same to one Sufia Khatoon on 27.02.1965. According to the present petitioner-Government, subsequently, Sufia Khatoon left the



property in an uncared condition due to which it was declared as abandoned property. On the other hand, the respondents' claim is that the property was transferred to Mrs. Halima Hossain on 25.03.1972 from whom their predecessor, Tajul Islam purchased along with one M. A. Hakim by sale deed dated 15.08.1977.

Article 2(1) of the P. O. 16 of 1972 defines the abandoned properties, in particular, any property owned by any person who is not present in Bangladesh or whose whereabouts are not known or who has seized to occupy, supervise or manage in person in his property. In the meantime the case property having been listed in the 'Ka' list of abandoned buildings under the Ordinance, 1985 and it led the predecessor of respondents 2(a) to 2(b) to come to the Court of Settlement.

Government's claim for treating the property as abandoned is that whereabouts of Sufia Khatoon was unknown to the Government. Therefore, the issue before the Court of Settlement was to determine whereabouts of Sufia Khatoon. It is reflected in the judgment of the Court of Settlement that both Sultan Ahmed and subsequent admitted transferee, Sufia Khatoon were non-Bengali. On the other hand, the claimant-respondents' ascertain is that although Sufia Khatoon was non-Bengali but she was all along in Bangladesh, died in 1992 and she was buried in Mirpur graveyard, Dhaka. It has been settled by a long line of cases of our Apex Court that burden of proof regarding whereabouts of the owner shall absolutely lies upon the claimant who asserts that it is not the abandoned property. Therefore,

question arises as to whether the claimant-respondents could prove the whereabouts of Sufia Khatoon.

Firstly, from the order sheets of the Court of Settlement it appears that by the order No. 10 dated 17.07.1997 the claimant i.e Attorney of predecessor of present claimants filed the documents by a Firisty. On the said date, the hearing of the case was concluded. Learned Advocate for the petitioner submits that those documents were not accepted and proved before the Court of Settlement in accordance with the Evidence Act and so the Court of Settlement was wrong in passing the judgment relying upon the untested documents. This submission also finds support from an unreported judgment passed on 30.03.2017 in Writ Petition No. 2256 of 2015 wherein a Division Bench held as under:

“From the records further it appears no one has deposed as witness before the Court and documents were not marked and exhibited as was submitted and accordingly it is not proved according to section 136 of the evidence Act. The witnesses are to be produced and to be examined but those were not followed. Further according to agreement if anybody wants to transfer the property they are to take permission under clause 19 and 20 of the lease agreement but as such there is no permission. Two settlement cases were filed, settlement case No.2 of 1991 was filed by respondent No.3 but such application was not signed by Murad Ali Habib rather signed by Charania. This Charania whether is the genuine Charania is to be settled. No witness as ever been produced before the Court to examine and identify the Charania. The Application was not represented by the applicants as stated earlier it was signed only by on Charu Mia. The learned Attorney General has given emphasis that the Respondent No. 3 could not prove the presence, identification his existence after independence

of Bangladesh in between in 1972-1975 even by producing a scratch of paper. Therefore his whereabouts is very much unknown his presence in Bangladesh is found to be absent. It could not be proved that Haibib Charania or Murad Ali Habib were present during the period. Since their presence is very much absent during this period as stated above and their whereabouts are not known and there was no permission for any transfer from the relevant authority and identification of Charania is found to be absent, we therefore come to a conclusion that the property as has been enlisted as abandoned property has rightly been published and enlisted as abandoned property. We find substance in this Rule and accordingly the Rule is made absolute. The Judgment and order passed by the First Court of Settlement in Settlement Case No. 02 of 1991 and 62 of 1991 is set-aside.”

(Underlined)

Secondly, we also find in the said judgment that the High Court Division did not rely upon the subsequent transfer on the ground that the leasehold property was allegedly transferred without prior permission from the Lessor. Here in this case, similar issue arises, as we find that the property in question was leasehold property and that the lease deed specifically incorporates conditions No. 20 and 21 which run as follows:

“20. That subject to the provision of clause 19 the tenant shall be at liberty to transfer or sublet subject to the conditions of these presents the whole of the demised property subject to the obligation that the transfer shall be registered in the office of such authority as may be appointed by the Lessor, and unless this is done, the lessor will not be bound to recognize or accept any person as Tenant of the demised property in place of the transferor:

Provided that without prior written sanction of the Lessor no transfer of a portion of the demised property shall be valid, binding or effective.

21. That when any change in ownership or possession occurs by succession or transfer, the person becoming entitled to such succession or transfer as also the person who effect the transfer shall, within one calendar month from the date thereof, give notice in writing to the Lessor or such succession or from the ate thereof, give notice in writing to the Lessor of such succession or transfer provided that where one of them has given the Lessor such notice nothing in this lease shall require the other party also to give notice.”

(Underlined)

From the above conditions, it appears that in case of transfer of lease hold/property, the Lessor has to be notified and the lessee-transferor needs to obtain previous approval from the Lessor. Although the claimant claims that the property was transferred in their favour but they have failed to show that those transfers were made in complying with the aforementioned conditions. Thus, the transfers alleged to have been made among the predecessors of respondent-claimants, create serious doubt about those transfers. Although Mr. Hassan Ariff submits that the lessor did not raise this question of prior approval, but those transactions privately shown without involving the relevant lessor-authority following required procedure (sanction and notifying), obviously create doubt about the subsequent transfers in question.

Thirdly, since the respondents claim that Sufia Khatoon had been in Bangladesh till 1992 but there is no paper regarding voter list, Bank account or any other correspondences from any public office except for a burial certificate issued by a private person of the grave yard. In the absence of

such material documents, it also creates strong doubt regarding whereabouts of Sufia Khaton in Bangladesh. The Court of Settlement failed to consider this aspect and thereby came to the erroneous decision.

Fourthly, the Court of Settlement emphasized on the claimant's possession in the case property and no notice was served upon the claimant. Thus, the Court of settlement held that without taking over possession, enlistment of property in "Ka" list is illegal. But this view is erroneous in view of latest pronouncements of our Apex Court wherein it was held that claim of possession is immaterial in declaring the property as abandoned property. The relevant portion of the case of Hazerullah and another Vs. Chairman, 1<sup>st</sup> Court of Settlement and another reported in 3 BLC (AD) 42 paragraph No. 10 are as follows.

"10. Before the Court of Settlement the petitioner could not produce any evidence that the said Abdur Rahim or his alleged heirs had been present in Bangladesh during and after the war of liberation and that their whereabouts were known to the respondent-Government or that the said Abdur Rahim had been occupying, supervising and managing the disputed property as on 28.2.72. The said court on consideration of the materials on record held that the original lessee Abdur Rahim and his heirs at the relevant time were not traceable in Bangladesh and that the appellants had unauthorisedly been occupying the property in question since 28.3.72. As such, it is immaterial, as far as the appellants are concerned whether the disputed property was published in the 'Ka' or 'Kha' list. It further appears therefrom that the appellants produced an affidavit dated 28.12.81 sworn by their vendors claiming themselves as the heirs of Abdur Rahim, to prove that on 8.6.78 the Ministry of Home Affairs by

their Memo No. 185/IMN/III(IN)-252/1978 had confirmed Bangladesh citizenship of the said Abdur Rahim. The Court of Settlement called for the relevant records of the said Ministry and having perused the same held that the said memo is a forged one. The appellants also produced a succession certificate to prove that their vendors are the heirs of the said Abdur Rahim. But the Court of Settlement on consideration of the materials on record held that the succession certificate had been obtained for the purpose of depositing the government dues of Taka 2000.00 against the disputed house and, as such, the said Court disbelieved that the appellants' vendors are the heirs of Abdur Rahim. The Court of Settlement further held that the appellants falsely created the alleged sale deed to grab the disputed property which is an abandoned property.”

(Underlined)

Fifthly, we find from Lower Court's record that the claimant Tajul Islam was not available in the country at the relevant time of filing the case before the Court of Settlement. It was filed by one Ali Ahmed claiming himself as Attorney of Tajul Islam. In support of his claim, we find an alleged Power of Attorney (reflects as letter of authorization) which is available in the record of the Court of Settlement. On perusal of the said document, it appears that it was executed showing the date 19.11.1979 at 313, ROMFORD ROAD, FOREST GATE, LONDON, E.7 allegedly executed by Tajul Islam and T.N.A. Hakim. But the document was not executed through proper channel inasmuch as it does not reflect authentication of Bangladesh High Commissioner, London and Ministry of Foreign Affairs, Dhaka. Therefore, the alleged Power of Attorney executed abroad in a Bangladeshi Stamp Paper and the absence of petitioner, Tajul

Islam, all these facts create further doubt regarding the respondents' claim and whereabouts of Sufia Khatoon in the property in question.

Lastly, Mr. Hassan Ariff, learned Senior Advocate vehemently submits that the Rule Nisi issued in earlier writ petition No. 8999 of 2010 being made absolute testing the judgment of the Court of Settlement, the present Rule Nisi on the self same judgment, is barred by principles of res-judicata.

We have gone through the said judgment and order dated 13.03.2018 passed in writ petition 8999 of 2010 by another Division Bench making the Rule Nisi absolute. It was filed by the claimant-respondents when the Government did not comply with the direction given by the Court of Settlement under its judgment and order dated 23.07.1997. The writ petition was not filed challenging propriety of the judgment of the Court of Settlement. Rather it was filed seeking direction in the form of mandamus for compliance of the said judgment. Although in the said judgment an observation was made regarding some title deeds but that does not alone justify the main issue involving in the judgment of the Court of Settlement, in particular, regarding whereabouts of the admitted owner of the case property.

The present Rule Nisi in the form of certiorari, has been issued questioning the judgment itself of the Court of Settlement i.e for adjudication of the propriety of the judgment of the Court of Settlement. While the earlier Rule Nisi in the form of mandamus was issued for a direction to comply with the said judgment of the Court of Settlement.

Therefore, the issues are different under those two Rules Nisi and as such, question of resjudicata does not arise.

We also find a similar situation in another writ petition under an unreported judgment and order dated 15.05.2023 of our Apex Court passed in CPLA No. 903 of 2023 with CPLA No. 2256 of 2017, 2427 of 2018 and Civil Review Petition for Leave to Appeal No. 339 of 2018. In that case, the claimant filed application of Settlement Case No. 84 of 1996 and it was allowed by the Court of Settlement on 16.07.1997. But due to noncompliance of the judgment, one S. Nehal Ahmed filed Writ Petition No. 2653 of 2005 and the Rule Nisi was made absolute and Government's C. P. No. 2260 of 2008 was also dismissed on 17.08.2009. Thereafter, the Government filed Review Petition No. 339 of 2018. At that situation, again Government challenged the very judgment of the Court of Settlement (like the present case) in the form of certiorari in Writ Petition No. 9051 of 2018. The Rule Nisi was made absolute in favour of the Government. Thereafter, S. Nehal Ahmed filed C.P. No. 903 of 2023. Adjudicating those all C. Ps and Civil Review Petition, the Appellate Division finally emphasized on the adjudication of the judgment passed by the High Court Division in the writ of certiorari. Accordingly, adjudicating the CP No. 903 of 2023, dismissed the same in favour of the Government upholding the judgment and order passed in the subsequent writ of certiorari setting aside the judgment of the Court of Settlement. Relevant portions of the said judgment of the Apex Court are as follows:



“From the aforesaid facts, it appears to us that the fate of all the matters is to be decided, regulated and governed by the judgment and order to be passed in Civil Petition for Leave to Appeal No. 903 of 2023 since the same arises out of the judgment and order of the Court of Settlement which was the basic judgment passed in favour of S. Nehal Ahmed, for getting release of the disputed property from the list of abandoned properties. So, we have decided to narrate the facts of the case as stated in Civil Petition for Leave to Appeal No. 903 of 2023 arising out of Writ Petition No. 9051 of 2018 and Settlement Case No. 84 of 1996.”

Therefore, from the above mentioned case, we also find that inspite of earlier writ petition the subsequent writ of certiorari was not disregarded by the apex Court merely because of filing earlier writ of mandamus in respect of same judgment of the Court of Settlement. Thus, we are unable to accept the submission of Mr. Hassan Ariff in this regard.

In view of above discussions, we are led to hold that the judgment and order of the Court of Settlement was not passed in accordance with law.

Hence, we find merit in this Rule Nisi.

In the result, the Rule Nisi is made absolute. The judgment and order dated 23.07.1997 passed by the 1<sup>st</sup> Court of Settlement, Dhaka in Settlement Case No. 284 of 1995 (Ka-31, Block-B, Mohammadpur, Dhaka) directing to exclude the case property being holding No. 13/12 from the “Ka” list of the Abandoned Building, prepared and published in the Bangladesh Gazette (Extra-Ordinary Issue) on 23.09.1986 (as contained in Annexure-D) is hereby declared to have been passed without lawful authority and is of no legal effect.

Communicate a copy of this judgment and order to the respondents at once.

**Razik Al Jalil, J**

I agree.