

**IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(Special Original Jurisdiction)**

**WRIT PETITION NO. 6254 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:**

Mohammad Riaz Hossain Khan and others.

... Petitioners

-Versus-

Government of the People's Republic of  
Bangladesh represented by the Deputy  
Commissioner, Dhaka, Dhaka Collectorate  
Bhaban, Police Station- Kotwali, District-  
Dhaka and others.

... Respondents

No one appears

...For the petitioners

Mr. Md. Mubarak Hossain, Advocate for  
Mr. Prabir Halder, Advocate and  
Mr. A.Z.M. Morshed Al Mamun, Advocate

...For the respondent nos. 7-11

**Heard on 24.11.2025 and 01.12.2025.**

**Judgment on 07.12.2025.**

**Present:**

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Hamidur Rahman

**Md. Mozibur Rahman Miah, J.**

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, at the instance of the petitioners who are neither any party to *Orpita Sampatti Protarpan* Case No. 3027 of 2013 or of *Orpita Sampatti Protarpan* Appeal No. 32 of 2017, a Rule *Nisi* was issued in the following terms:

“Let a Rule *Nisi* be issued calling upon the respondents to show cause as to why the order under Memo No. 05.41.2600.026.41.025.18.472 dated 23.04.2019 (Annexure-‘N’ to the writ petition) issued by the respondent no. 4 in pursuance of judgment and decree dated 20.08.2017 passed in *Orpita Sampatti Protarpan* Appeal No. 32 of 2017 dismissing the appeal and affirming the judgment and decree dated 30.01.2017 passed in *Orpita Sampatti Protarpan* Suit No. 3027 of 2013 and thereby directing the respondent no. 3 handing over the possession of the land in question to the respondent nos. 7-11 and corrected the Record of Rights (ROR) and as to why the inclusion of land measuring 3/5 portions out of .99 acres appertaining to District-Dhaka, Police Station-Kotwali, Mouza- Sutrapur, J.L. No. 03, S.A Khatian No. 4292, S.A. Dag No. 7190 in the ‘ka’ list (Annexure- ‘J’ to the writ petition) as the vested property published in the Bangladesh Gazette, Additional, May 6, 2012 in page No. 41507, Serial No. 431 should not be declared

to have been passed without lawful authority and is of no legal effect and as to why a direction should not be given upon the respondents to release the land measuring 3/5 portions out of .99 acres appertaining to District-Dhaka, Police Station-Kotwali, Mouza-Sutrapur, J.L. No. 03, S.A. Khatian No. 4292, S.A. Dag No. 7190 in the 'ka' list (Annexure- 'J' to the writ petition) as the vested property published in the Bangladesh Gazette, Additional, May 6, 2012 in page No. 41507, Serial No. 431 in favour of the petitioners and/or pass such other or further order or orders passed as to this Court may seem fit and proper.”

At the time of issuance of the rule, the operation of the impugned order under Memo No. 05.41.2600.026.41.025.18.472 dated 23.04.2019 (Annexure-‘N’ to the writ petition) issued by the respondent no. 4 and all subsequent actions thereof was stayed as well as the parties were directed to maintain *status quo* in respect of possession and position of the case land initially for a period of 6(six) months. The said interim orders were subsequently extended from time to time and it was lastly extended on 21.09.2021 till disposal of the rule.

The salient facts leading to issuance of the instant rule are:

The present petitioners filed the instant writ petition stating *inter alia* that the land in question was put on auction sell on account of falling the rent due in a certificate proceeding being No. 17 OD/1957-1958 and the predecessor of the petitioners purchased the same on 24.01.1962 and

delivered possession to the predecessor of the petitioner on 11.07.1962. It has further been stated that the predecessor of the respondent nos. 7-11 being aggrieved with such auction sale filed Civil Revision No. 38 of 1964 which was ultimately dismissed against which a review petition was also filed which also went against them. Thereafter, the father of the respondent nos. 7-11 again filed a Title Suit being No. 127 of 1968 which was renumbered as Title Suit No. 175 of 1992. That very Title Suit was also dismissed against which the respondent nos. 7-11 filed an appeal being Title Appeal No. 33 of 1998 and that appeal was also dismissed. Then, they filed a Civil Revision before this court being Civil Revision No. 3651 of 2002 and the rule of the said revision was discharged on 12.07.2010. It has further been stated that though the petitioners failed in their repeated attempts but in an ill-motive and in order to grab the case land, they never refrained and again started new litigation by filing *Orpita Sampatti Protarpan* Case which is misleading, concocted, fabricated and malafide and mere a tool to make hindrance of the process of the court and the judgment and decree impugned in the writ petition cannot sustain.

On the contrary, the petitioners duly filed a suit before the relevant authority for wrongful inclusion of the property in question in 'kha' list and as a result, they did not feel to search whether the said property had ever been enlisted in 'ka' schedule and very reasonably filed any case for the wrongful inclusion of the case land in 'ka' list and hence, they filed the instant writ petition.

On the other hand, the present respondent nos. 7-11 by filing affidavit-in-opposition has asserted that being aggrieved with the

inclusion of the case property in the gazette notification dated 06.05.2012, filed a case being *Orpita Sampatti Prottorpan* Case No. 3027 of 2013 where the present respondent no. 1 contested and it was ultimately decreed vide judgment and decree dated 30.01.2017. Against that judgment and decree, the present respondent no. 1, government preferred an appeal being *Orpita Sampatti Prottorpan* Appeal No. 32 of 2017 which was also dismissed affirming the judgment and decree passed by the trial court.

It is at that stage, the present petitioners, as 3<sup>rd</sup> parties filed the instant writ petition.

Though the matter has been appearing in the list on a series of occasions, even with the name of the learned counsel for the petitioners, yet he did not bother to turn up or to press the rule and ultimately we deferred the matter for passing judgment on 02.12.2025 when one, Mr. Md. Mucktadir Rahman, learned Advocate prayed for adjournment and we then deferred passing the judgment. Today, when we took up the matter for passing the judgment, the learned counsel submits that he could not gather power from the petitioners and thus unable to press the rule. Consequently, we take up the matter for passing judgment.

However, we have perused the grounds so have been taken by the petitioners in the writ petition where they claimed to get the property through auction by virtue of certificate proceeding and acquired the property under holding no. 15/1 Farashganj Lane, Police Station- Sutrapur, Dhaka. It has also been contended in the ground that in spite of having every knowledge about acquiring the property by the petitioners and the

same was earlier enlisted in 'kha' list and there in 'ka' list yet that very point had not been brought to the courts below by the respondent nos. 7-11 and had the court noticed that shortcomings of the case of the respondents, certainly the court would not have passed the judgment in their favour. It has also been stated that since the petitioners had no knowledge about inclusion of the property in 'ka' schedule rather it has included in 'kha' list which has subsequently been omitted for being challenged, so they did not bother to look into the said matter and thus they have compelled to file the instant writ petition.

On the contrary, Mr. Md. Mubarak Hossain, the learned counsel with the permission of this court to appear for Mr. Prabir Halder, the learned counsel for the respondent nos. 7-11 by filing an affidavit-in-opposition opposes the ground so have been taken in the writ petition and at the very outset submits that the claim of the petitioners and that of the case property in schedule of 'ka' has got no nexus having no scope to challenge the concurrent judgment and decree obtained by the respondent nos. 7-11.

The learned counsel goes on to submit that since the gazette notification with regard to 'ka' list has already been challenged and it was released in favour of the respondent nos. 7-11 so by filing the instant writ petition, there has been no scope of the petitioners to challenge the inclusion of 'ka' list any further with the passing of concurrent judgment and decree disposed of by the competent courts.

The learned counsel also contends that since the government all through contested the case and appeal and they have not preferred any

writ petition, so under no circumstances, can the petitioners challenge the said concurrent judgment as third parties about the inclusion of the case property in 'ka' schedule. With those submissions, the learned counsel finally prays for discharging the rule.

We have considered the submission advanced by the learned counsel for the respondent nos. 7-11 and perused the writ petition and the affidavit-in-opposition and the documents so have been appended with those of the writ petition as well as the affidavit-in-opposition.

In order to examine the core submission so placed by the learned counsel for the respondent nos. 7-11, we have very meticulously gone through the gazette notification through which the property in question has been included in 'ka' schedule where we find as many as 4(four) different plots measuring a total area of .0584 acres of land. On the contrary, on going through the claim as has been scheduled in Annexure- 'A' and 'B' to the writ petition, we find the petitioners belong to holding no. Farashganj, 15/1, B. K. Das Road having no iota of nexus which the inclusion of case land in 'ka' schedule.

On top of that, since it has already decided by our Appellate Division reported in 56 DLR (AD) 73 that a third party has got no *locus standi* to challenge the judgment and decree where the propriety of inclusion of any property as of V. P. has been called in question. So on that very score, the writ itself is not maintainable from its very inception. On top of that, since in the meantime competent court of law has already adjudicated the issue which remained unchallenged by the respondent no.

1 so challenging inclusion of the self-same property before this court is totally redundant one.

Regard being had to the above facts, circumstances and discussion, we don't find any shred of substance in the instant writ petition and the same is not maintainable as well.

Accordingly, the rule is discharged however without any order as to costs.

At any rate, the interim orders granted at the time of issuance of the rule stands recalled and vacated.

Let a copy of this judgment and order be communicated to the respondents forthwith.

**Md. Hamidur Rahman, J.**

I agree.