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

Present:

Mr. Justice Md. Badruzzaman

And

Mr. Justice Sk. Tahsin Ali

WRIT PETITION NO. 7673 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 :

Joyrath Paul and others

…….. Petitioners

-Versus-

Government of Bangladesh represented by the Secretary Ministry of Land, Bangladesh Secretariat, Ramna, Dhaka and others.

... Respondents.

Mr. Mazedul Islam Patwary, Advocate

... For the Petitioners.

Mr. Mohammad Imam Hossen Tareq, D.A.G
with Mr. Mohammad Rashedul Hasan, D.A.G
with Mr. Shakir Uddin Ahmed Bappy, D.A.G
with Mr. Mohammad Anowar Hossain, A.A.G
with Mr. Md. Shahidul Islam, A.A.G with
Mr. Kamrunnahar Lipi, A.A.G

…For the Respondent Nos. 1-2.

Mr. Mozammel Haque Advoate

…For the respondent Nos. 3(a)-3(c)

Heard on: 04.11.2026.
Judgment on: 08.11.2026.

Md. Badruzzaman, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, this Rule Nisi was issued calling upon

the respondents to show cause as to why the judgment and decree dated 23.05.2018 and 30.05.2018 respectively, passed by the learned Additional District Judge, 1st Court, Gazipur, in Arpita Appeal No. 84 of 2014, allowing the appeal and thereby reversing the judgment and decree dated 09.10.2014 and 16.10.2014 respectively, passed by the learned Senior Assistant Judge (Arpita Sampatti Tribunal), Gazipur in Arpita Sampatti Pratyarpan Case No. 23 of 2012, dismissing the case (Annexures-C and C-1), should not be declared to have been passed without lawful authority and to be of no legal effect, and/or such other or further order or orders as this Court may deem fit and proper.

The facts, relevant for the disposal of the Rule, are that respondent No. 3, as plaintiff, instituted Arpita Sampatti Pratyarpan Case No. 23 of 2012 before the Arpita Sampatti Pratyarpan Tribunal, Gazipur, against the Government, seeking release of the suit property measuring 1.78 acres, comprising R.S. Khatian Nos. 57, 58 and 59 of R.S Plot Nos. 42, 91, 101, 140, 154, 38,36, 37, 96, 35 and 38 which had been enlisted as vested property in the relevant Gazette notification.

The Tribunal, upon hearing the parties and recording evidence, dismissed the case by its judgment and decree dated 9.10.2014. Being aggrieved by the said judgment and decree, respondent No. 3 preferred Arpita Appeal No. 84 of 2014 before the Arpita Sampatti Appellate Tribunal, Gazipur. The said appeal was heard by the learned Additional District Judge, 1st Court, Gazipur, who, by the judgment and decree dated 23.05.2018, allowed the appeal, thereby reversing the judgment and decree passed by the Tribunal and directing release of the suit property from the list of vested properties published in the relevant Gazette.

On the other hand, one Halima instituted Orpito Sampatti Prottorpon Case No. 705 of 2013 before the Orpito Sampatti Prottorpon Tribunal, Gazipur, for release of .60 acre land of R.S. Plot Nos. 91, 96 and 92 under R.S. Khatian Nos. 59, 58, 44 from the list of abandoned properties published in the Gazette which was decreed against the Government by judgment and decree dated 28.08.2017. Being aggrieved by the said judgment and decree, the Government preferred Orpito Appeal Case No. 8 of 2018 before the Orpito Appellate Tribunal, Gazipur. However, the said appeal was also dismissed by judgment and decree dated 13.02.2018.

The petitioners instituted Orpito Sampatti Prottyarpan Case No. 704 of 2013 before the Orpito Sampatti Prottyarpan Tribunal, Gazipur, seeking release of 0.29 acre of land appertaining to R.S. Plot No. 101 under R.S. Khatian No. 59 from the list of vested properties. Upon hearing the parties and considering the materials on record, the Tribunal decreed the suit against the Government by its judgment and decree dated 09.10.2014. Being aggrieved by the said judgment and decree, the Government preferred Orpito Sampatti Prottyarpan Appeal No. 72 of 2015 before the Orpito Sampatti Appellate Tribunal, which was dismissed by its judgment and decree dated 12.05.2015. Thereafter, the Government did not challenge the said appellate judgment before any higher forum.

Challenging the legality and propriety of the judgment and decree dated 23.05.2018 passed by the learned Additional District Judge, First Court, Gazipur, in Orpito Sampatti Prottyarpan Appeal No. 84 of 2014, the plaintiffs of Orpito Sampatti Prottyarpan Case No. 704 of 2013 has preferred the instant writ petition and obtained the present Rule Nisi.

Mr. Mazedul Islam Patwary, learned Advocate appearing on behalf of the petitioners, taking us through the writ petition, the documents annexed thereto and other materials available on record, submits that both the appeals arising out of the same subject matter, one preferred by the Government and the other by the present petitioners, ought to have been heard and disposed of together by the Orpito Sampatti Prottyarpan Appellate Tribunal. He further submits that, while disposing of one appeal, the Appellate Tribunal directed release of the disputed property in favour of respondent No. 3, whereas, in the other appeal, the same Tribunal directed release of the property in favour of the petitioners. Such conflicting decisions have given rise to competing claims over the same property and have adversely affected the petitioners' title and possession. The learned Advocate contends that, in the circumstances, the impugned judgment and decree cannot be sustained in law and that the matter requires fresh consideration upon hearing all the concerned parties. He, therefore, prays that the impugned judgment and decree be set aside and the appeal be sent back on remand to the competent Appellate Tribunal for fresh hearing and disposal in accordance with law.

On the other hand, Mr. Mozammel Haque, learned Advocate appearing for respondent No. 3(a) -3(c), opposes the Rule and submits that the impugned judgment and decree was passed by the Appellate Tribunal upon proper consideration of the facts and circumstances and the materials available on record. He further submits that, in view of Clause (kha) of Section 12 of the Orpito Sampatti Prottyarpan Ain, 2001, an order directing release of any property from the list of vested properties does not, by itself, declare or confirm the title, possession or any other proprietary right of the applicant in respect of the released

property. He contends that the jurisdiction of the Tribunal under the aforesaid Ain is confined to determining whether the property has been lawfully included in the list of vested properties and whether the applicant is entitled to obtain its release from such list. The Tribunal is not competent to conclusively adjudicate upon competing claims of title, ownership or possession between rival claimants. He lastly submits that, if the petitioners have any independent claim of title or possession in respect of the disputed property, they may seek appropriate relief before the competent civil court in accordance with law. Accordingly, he prays for discharging the Rule.

We have heard the learned Advocates appearing for the respective parties, perused the writ petition, the impugned judgment and decree, the judgments and decrees passed by the Orpito Sampatti Prottyarpan Tribunal and the Appellate Tribunal, and other materials available on record.

The principal question requiring determination in the instant Rule is whether the impugned judgment and decree passed by the Orpito Sampatti Appellate Tribunal, releasing the disputed property in favour of respondent No. 3, has adversely affected the petitioners' title, possession or other legal rights in respect of the property in question.

In considering the matter, we find it necessary to refer to the provisions of Clause (kha) of Section 12 of the Orpito Sampatti Prottyarpan Ain, 2001. The said provision makes it clear that an order directing release of any property from the list of vested properties shall not, by itself, be deemed to declare or confirm the title, possession or any other right of the applicant in respect of the property so released. In other words, the jurisdiction of the Tribunal under the said Act is confined to examining the legality of the inclusion of the property in the

list of vested properties and determining whether the applicant is entitled to have the property released from such list. Such an order does not operate as a declaration of title or confirmation of possession in favour of the applicant.

Upon a conjoint reading of Sections 10, 12 and 17 of the Orpito Sampatti Prottyarpan Ain, 2001, we are of the view that the jurisdiction of the Tribunal is confined to determining whether the property in question has been lawfully included in the list of vested properties and whether the applicant has established a prima facie claim entitling him to obtain an order for release of the property from the said list. The Tribunal is not vested with the jurisdiction to conclusively adjudicate upon competing claims of title, ownership or possession between rival claimants.

In the present case, although the petitioners contend that the impugned judgment and decree has adversely affected their title and possession, we find that an order of release passed by the Tribunal cannot, by itself, create, extinguish or conclusively determine the proprietary rights of the rival claimants. Therefore, merely because the property has been released in favour of respondent No. 3, the petitioners cannot be said to have been deprived of their independent claim of title or possession, if any, in respect of the disputed property.

We further observe that if any conflicting claim of title, ownership or possession arises between the petitioners and respondent No. 3, such dispute is required to be adjudicated upon by the competent civil court in accordance with law, upon consideration of the evidence and materials produced by the respective parties. The impugned judgment and decree passed by the Appellate Tribunal releasing the property from the list of vested properties shall not, by

itself, operate as a bar to the petitioners' right to seek appropriate relief before the competent civil court.

In view of the aforesaid legal position, we do not find any sufficient ground to interfere with the impugned judgment and decree in the instant proceeding. The apprehension expressed by the learned Advocate for the petitioners regarding their title and possession may be addressed before the competent civil court, if so advised, in accordance with law.

In the facts and circumstances of the case and in view of the provisions of Sections 10, 12 and 17 of the Orpito Sampatti Prottyarpan Ain, 2001, we are of the considered view that the impugned judgment and decree passed by the Orpito Sampatti Appellate Tribunal does not, by itself, determine or prejudice the independent claim of title, ownership or possession of the petitioners in respect of the disputed property.

Accordingly, we find no merit in the instant Rule.

The Rule is, therefore, discharged with the above observations.

It is, however, made clear that the observations made herein shall not prejudice the rights and contentions of either party in any independent civil proceeding concerning title, ownership or possession of the disputed property, and the competent civil court shall decide such dispute independently, on the basis of the evidence and materials placed before it and in accordance with law.

There shall be no order as to costs.

(Justice Md. Badruzzaman)

I agree.

(Justice Sk. Tahsin Ali)