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

CIVIL REVISION NO. 545 of 2021
In the matter of:

An Application under section 115(4) of the Code of Civil Procedure, 1908.

And
In the matter of:
Md. Anower Hossain
…….. Applicant-Petitioner.
Vs.
M.A. Nasir and others.
……..Opposite Parties.

Present (Physically in Court Room) **:**
Mr. Justice Sheikh Hassan Arif
And
Mr. Justice Ahmed Sohel

Mr. Md. Abdur Razzak, Advocate (Appearing Virtually).
….For the Applicant-Petitioner.

Heard on 24.06.2021 and judgment on 11.08.2021.

SHEIKH HASSAN ARIF, J

1. At the instance of the applicant for addition of party in Vested Property Tribunal Suit No. 247 of 2012, Rule was issued calling upon the opposite parties to show cause as to why the impugned Judgment and order dated 17.09.2020 passed by the learned District Judge, Narayanganj in Civil Revision No. 14 of 2019 dismissing the same and thereby affirming the order dated 24.04.2019 passed by the learned Senior Assistant Judge, Second Court and Vested Property Return Additional Tribunal, Narayanganj in Vested Property Tribunal Suit No. 247 of 2012 rejecting petitioner's application for addition of party, should not be set aside

and/or such other or further order or orders be passed as to this Court may seem fit and proper.

2. <u>Back Ground Facts:</u>

2.1 Facts, relevant for the disposal of the Rule, are that the Opposite Party No. 1, as applicant, filed Vested Property Tribunal Suit No. 247 of 2012 before the Vested Property Return Tribunal, Narayangonj and the said case was assigned to the Second Senior Assistant Judge and Arpita Shampatti Return Tribunal, Narayangonj for trial. The case of the opposite party-applicant in the said vested property case is that the suit land originally belonged to Ashok Ali Mir and, accordingly, C.S Khatian was published in his name. Ashok Ali died leaving behind his son Korom Ali Mir and two daughters, Atoronnessa and Oyasi Bibi. That, subsequently, the suit land was taken away by the Zaminder for non-payment of Khajana. Thereupon, Korom Ali and Atoronnessa, by paying Tk. 3,000/- as salami, became owner and possessor of the entire property.

2.2 That Korom Ali Mir died leaving behind his only son Abdur Rahman Mir, who, subsequently, transferred his share in the property to Atoronnessa by way of deed of exchange and he took some other non-suited lands from his aunt. Thereafter, by rent suit No. 1409/1992, Abdur Rahman and Atoronnessa became owner in possession of the suit land. That at the time of S.A.

record preparation, the suit land was wrongly recorded in the names of Giris Chandra Das and Norendra Nath's sons. Being aggrieved by the S.A record, Abdur Rahman and Atoronnessa filed Misc Case No. 12F/1968-69 in the Revenue Court, Narayanganj and the Court, by its order dated 12.09.1968, directed to erase the names of Giris Chandra and others in S.A. Khatian No. 322 and to record the same in the names of Abdur Rahman and Atoronnessa.

2.3 That, Subsequently, one Ibrahim became owner and possessor of the suit land by way of purchase from the heirs and subsequent purchasers from the said Abdur Rahman and Atoronnessa. Then the suit property was sold to the Managing Director of Nipa Engineering, M.A Nasir, by sale deed No. 16016 dated 27.08.1982 and 16048 dated 27.08.1982, who subsequently gifted the same to 7 (seven) social welfare institutions including the applicants Medical College and Hospital, School and Mosque. However, the said property having been enlisted as returnable vested property under the 'Ka' schedule in the gazette published by the government under Arpita Shampatti Prottarpon Ain, 2001, the applicants filed the said suit for release of the said property mentioned in the schedule to the application.

2.4 While the said suit was proceeding, the petitioner school, represented by its Secretary, filed an application therein purportedly under Order 1, rule 10(2) read with Section 151 of the Code of Civil Procedure, 1908 and Section 25 of the Arpita Shampatti Prottarpon Ain, 2001 for adding it as party therein stating, inter-alia, that 906 decimals of land mentioned in the schedule to the said application along with other lands originally belonged to one Giris Chandra Das and others as owners of upper title as per C.S. Khatian 295, Plot Nos. 258, 281, 282, 583 under 154 Dapa Indrapur Mouza, Police Station and Sub registry Office Fatullah, Narayangonj and, under him, it was recorded in favour of one Ashok Ali Miah in the column of possession. That, because of the failure of payment of rent, the said property was returned to the Jamidar. That the said Jamidar, Giris Chandra Das, died leaving his five sons as heirs. That one of the sons, Narendra Nath Das, having died, Subod Chandra Das and Sushil Chandra Das became heirs in his place and the said property was recorded under S.A. Khatian No.322 in the names of Surendra Mohor Das and others. That the said Surendra Mohor Das and others gifted the said property by an unregistered deed in favour of the petitioner-school and handed-over possession and, accordingly, the said 906 decimals land was recorded in the name of the Secretary of the School under R.S. Porcha. But certain property thereof was wrongly recorded in the name of Atorjanbibi, and the said Atorjanbibi then gifted the said property

in favour of the said school vide registered deed No. 9245 dated 31.12.1974. Since then, the school has been possessing the said land upon erecting boundary wall and gate and that the school is run by a committee and functioning for about more than sixty years.

2.5 However, when one M.A. Nasir claimed ownership of certain property of the school, negotiation took place, and the said Nasir gifted the said property in favour of the school vide registered gift deed No. 7636-7642 dated 27.11.1995 and, accordingly, handed over possession of the land. Accordingly, the school became the absolute owner in possession of the said 906 decimals of land. However, the said land along with some other lands having been enlisted in the Arpita Shampatti gazette under schedule ‘Ka’, the said school filed application for release of the said property from the gazette before the same tribunal, namely Second Senior Assistant Judge and Arpita Shampatti Return Additional Tribunal, Narayangonj and, accordingly, the said application was recorded as Arpita Shampatti Case No. 6325 of 2013. However, since the opposite party No. 1 has filed the instant vested property tribunal case, the petitioner school filed the said application for adding it as one of the opposite parties in the said case.

2.6 Upon such application, the Tribunal, after hearing the parties, rejected the same vide order dated 24.04.2019 mainly on the

ground that the subject matter of the said Arpita Shampatti Return case being the determination of the issue whether the said property should be released from the gazette and since the petitioner filed a separate case for release of its portion of the property, which was pending, there was no scope for adding the petitioner as one of the parties in the said case. Being aggrieved by this order dated 24.04.2019, the petitioner preferred Civil Revision No. 14 of 2019 before the Court of District Judge, Narayangonj. Thereafter, the learned District Judge, after hearing the parties, dismissed the said civil revision vide impugned judgment and order dated 17.09.2020 mainly on the ground that the Additional Tribunal did not commit any illegality in rejecting the application of the petitioner for addition of party. The petitioner then moved this Court invoking civil revisional jurisdiction under Section 115(4) of the Code of Civil Procedure and obtained the aforesaid Rule mainly by referring to a decision of a single bench of this Court in **Surotunnessa and others vs. Bangladesh and others, 68 DLR(2016)-463** taking the view that civil revisional application against the order of the Arpita Shampatti Return Tribunal was maintainable. At the time of issuance of the Rule, this Court, vide ad-interim order dated 22.02.2021, stayed further proceedings of the said Vested Property Tribunal Suit No. 247 of 2012 for a period of 02(two) months. At the same time, this Court ordered to post this matter in the list on 16.03.2021 for necessary order in order for early

disposal of the Rule. Accordingly, the Rule has been fixed at the earliest opportunity for hearing.

3. <u>Submissions:</u>

3.1 Mr. Md. Abdur Razzak, learned advocate appearing for the petitioner, submits that certain portion of the property in question in Vested Property Tribunal Suit No. 247 of 2012 has been gifted in favour of the petitioner-school by registered deeds and as such the petitioner-school itself has filed Vested Property Case No. 6325 of 2013 before the same Tribunal for release of the said property from the vested property list in favour of the said school. Therefore, he submits that the petitioner was a necessary party in the said Vested Property Suit No. 247 of 2012 filed by the Opposite Party No. 1 for release of certain property including the property of the petitioner's school. Thus, he submits, the Tribunal as well as the learned District Judge have committed illegality in not allowing the petitioner to be added as party in the said vested tribunal case.

3.2 On the question of maintainability of the civil revisional application against an interlocutory order of the tribunal, Mr. Razzak has referred to the said decision of a single bench of this Court in **Surotunnessa and others vs. Government of Bangladesh, 68 DLR-463.** He submits that in the said case a single bench has categorically held that civil revisional application

is maintainable against an interlocutory order passed by the Tribunal.

3.3 Mr. Razzak further argues that in the said case, this Court also has held that the petitioner therein is a necessary party in the suit concerned and as such should have been added as party in the said vested property suit. In this regard, learned advocate has drawn this Court's attention to Sections 25 and 31 as well as other relevant provisions of the Arpito Shampatti Prottarpon Ain, 2001. According to him, if these provisions are read together, it will be clear that civil revisional application should be held to be maintainable against an interlocutory order passed by the Tribunal.

3.4 Fortunately, in the middle of hearing, we have found Mr. Probir Neogi, learned senior counsel, being virtually present before this Court, and sought his opinion on the issue of maintainability of civil revisional application against interlocutory orders passed by the Tribunal. Mr. Neogi has then referred to various provisions of the Arpito Shampatti Prottarpon Ain, 2001 starting with the preamble of the said Ain. According to him, the properties listed in the gazette are no more vested properties after the amendment done in 2013 vide Act No. 46 of 2013, rather the properties have become returnable properties. Therefore, the Tribunals and the Appellate Tribunals' function is now to

determine the prima-facie owner of the said property and, accordingly, release the property on the application of the said prima-facie owner. However, by referring to Section 12 of the said Ain, he submits that even if the property is released in favour of a particular claimant or applicant, such release will not in any way be deemed to have given title or possession in his favour as per law, he submits. Therefore, he opines that, if there is any dispute as regards title and/or possession of the property concerned, such dispute has to be resolved by the civil courts in accordance with law.

3.5 As regards maintainability of the civil revisional application, Mr. Neogi has referred to the provisions under Sections 4 and 18 of the said Ain, and submits that as per Section 4 of the said Ain, only the provisions of Code of Civil Procedure which are mentioned to be made applicable as per the provisions of the said Ain are applicable and no other provisions of the Code of Civil Procedure can be made applicable in respect of proceedings before the Tribunal. Therefore, he submits that in view of the provisions under Sections 4 and 18 of the said Ain, the civil revisional application cannot be held to be maintainable against interlocutory order passed by the Tribunal.

3.6 The Rule is not opposed by any one.

4. **Deliberations, Findings and Orders of the Court**:

4.1 Since we are confronted with a decision of this Court delivered by a single bench taking the view that civil revisional application is maintainable, we need to examine the issues afresh, particularly when we have heard contrary opinion from the Bar, in particular the submissions of Mr. Neogi. Therefore, in this matter, we will concentrate on the issue of maintainability of the civil revisional application first and then we will decide if the petitioner is required to be added as party in the Tribunal's case concerned, although that later issue will become immaterial if we take the view that civil revisional application is not maintainable.

4.2 As submitted by Mr. Probir Neogi, learned senior counsel, it appears from the very preamble of the said Act, namely Arpito Shampatti Prottarpon Ain, 2001, that this Act was in fact enacted by the Parliament in order for return of the properties, listed as vested properties, in favour of Bangladeshi original owners or their successors or successors in interest. Although some issues regarding vested property or returnable property are huge issues involving Constitution as well as our proclamation of independence, those issues may be dealt with in a proper case in future. For the purpose of this civil revisional application, it appears that the 'returnable properties,' or the 'list of returnable properties' as defined by Clause-'Ta' of Section 2 of the said Act, is the list which is published under Section 9 of the said Act.

Section 9 provides that the government shall publish a list of returnable properties through gazette in a particular way mentioned therein, and, according to Section 10, the owner of the said properties will be entitled to file application within certain period mentioned by law, or subsequent amendment to the law, before the Tribunal constituted by the said Act for release of the said properties. The Tribunal, thereupon, if satisfied that the claimant or the applicant has furnished enough supporting documents or evidences in support of his claim, will direct to release the said properties from the said list.

4.3 However, in deciding whether such properties should be released in favour of the said claimant or applicant, the Tribunal is required to determine whether the said claimant or applicant has established his prima-facie title in the said property, and this obligation of the Tribunal to determine prima-facie title becomes more relevant when we see sub-clause (Gha) of sub-section (8) of Section 10 of the said Act. However, if we read these provisions along with the provision of Section 12 of the said Act, it will become clear that such determination of ownership or title of a particular applicant or claimant is not the final decision as regards his title or possession. Section 12, clause (Kha) particularly, provides that any decision to release such property in favour of any person shall not be deemed to be a declaration of title or possession in his favour. This means that even after such

release of the property in favour of a particular person treating him as prima-facie owner of the said property, anyone can challenge the title of that person in accordance with law before a competent civil court.

4.4 Now the question is, in the process of such disposal of an application of a claimant or applicant, when the Tribunal passes various orders, which we call interlocutory orders, whether any party can challenge such order before the higher forum of judiciary under civil revisional jurisdiction in view of the provisions under Section 115 of the Code of Civil Procedure, 1908. To address this issue, it is pertinent to quote the provisions of Sections 4 and 18 of the Arpito Shampatti Prottarpon Ain, 2001 for our ready reference.

"৪। এই আইনের অধীন কোন কার্যধারায় দেওয়ানী কার্যবিধির নিম্নবর্ণিত বিধানাবলী ব্যতীত অন্য কোন বিধান প্রযোজ্য হইবে না, যথাঃ-

(ক) এই আইনে বা বিধিতে কোন বিষয়ে দেওয়ানী কার্যবিধির কোন বিধান যতটুকু প্রযোজ্য মর্মে বিধান করা হয় ততটুকু; এবং

(খ) উক্ত কার্যবিধির ১১ ধারা।

১৮। (১) উপ-ধারা (২) এ উল্লিখিত ট্রাইব্যুনালের সিদ্ধান্তসমূহের বিরুদ্ধে শুধুমাত্র আপীল ট্রাইব্যুনালে আপীল দায়ের করা যাইবে; ট্রাইব্যুনালের অন্য কোন সিদ্ধান্তের বিরুদ্ধে আপীল ট্রাইব্যুনালে বা অন্য কোন আদালতে বা কর্তৃপক্ষের নিকট উক্ত সিদ্ধান্তের বৈধতা, যথার্থতা বা সঠিকতা সম্পর্কে কোন প্রশ্ন উত্থাপন করা যাইবে না, এবং তাহা করা হইলে আপীল ট্রাইব্যুনাল বা উক্ত অন্য আদালত বা কর্তৃপক্ষ সরাসরি নাকচ করিয়া দিবে।

(২) ট্রাইব্যুনালের নিম্নবর্ণিত সিদ্ধান্তের বিরুদ্ধে আপীল ট্রাইব্যুনালে আবেদনকারী বা প্রতিপক্ষ আপীল দায়ের করিতে পারিবেনঃ-

(ক) ধারা ১০ এর উপ-ধারা (১), (২) বা (৪) এর অধীনে কোন আবেদন শুনানীর জন্য গ্রহণ না করিয়া সরাসরি নাকচের সিদ্ধান্ত;

(খ) একতরফা বা দোতরফা শুনানী অন্তে ধারা ১০ এর উপ-ধারা (১) বা (২) এর অধীনে প্রত্যর্পণযোগ্য সম্পত্তি প্রত্যর্পণ বা ক্ষতিপূরণের টাকা পাওয়ার আবেদন মঞ্জুর বা নামঞ্জুর করিয়া প্রদত্ত রায়;

(গ) একতরফা বা দোতরফা শুনানী অন্তে ধারা ১০(৩) এর অধীনে উপস্থাপিত অবমুক্তকরণের আবেদন মঞ্জুর বা নামঞ্জুর করিয়া প্রদত্ত রায়ঃ

তবে শর্ত থাকে যে, এই উপ-ধারায় উল্লিখিত ট্রাইব্যুনালের সিদ্ধান্ত বা রায়ের পূর্বে প্রদত্ত এমন অন্তর্বর্তী আদেশের ব্যাপারে আপীলে প্রশ্ন উত্থাপন করা যাইবে যাহার ভিত্তিতে ট্রাইব্যুনাল উক্ত সিদ্ধান্ত বা রায় প্রদান করিয়াছে।

(৩) ট্রাইব্যুনাল কোন আবেদন ধারা ২৩ (৩) এর অধীনে খারিজ করিলে সেই আদেশের বিরুদ্ধে আপীল করা যাইবে না।

(৪) উপ-ধারা (২) এ উল্লিখিত সিদ্ধান্ত বা রায় প্রদানের ৪৫ (পঁয়তাল্লিশ) দিনের মধ্যে আপীল দায়ের করিতে হইবে এবং এই সময়সীমা বৃদ্ধি করার ক্ষেত্রে Limitation Act, 1908 (IX of 1908) এর Section 5 প্রযোজ্য হইবে না।

(৫) আপীল ট্রাইব্যুনাল উভয় পক্ষকে শুনানীর সুযোগ প্রদানপূর্বক আপীল দায়েরের ৩০০ (তিনশত) দিনের মধ্যে উহার রায় প্রদান করিবেঃ

তবে শর্ত থাকে যে, কোন অনিবার্য কারণে উক্ত মেয়াদের মধ্যে কোন আপীল নিষ্পত্তি করা সম্ভব না হইলে, আপীল ট্রাইব্যুনাল কারণ লিপিবদ্ধ করিয়া অতিরিক্ত ৬০ (ষাট) দিনের মধ্যে আপীল নিষ্পত্তি করতে পারিবেঃ

আরো শর্ত থাকে যে, উল্লিখিত বর্ধিত সময়ের মধ্যেও যদি যুক্তিসঙ্গত কোন কারণে কোন আপীল নিষ্পত্তি করা সম্ভব না হয়, তাহা হইলে আপীল ট্রাইব্যুনাল উহার কারণ লিপিবদ্ধ করিয়া আবেদনটি নিষ্পত্তির জন্য সর্বশেষ আরো ৩০ (ত্রিশ) দিন সময় বর্ধিত করিতে পারিবে।

(৬) কোন পক্ষকে শুনানী অন্তে আপীল ট্রাইব্যুনাল আপীল মঞ্জুর বা নামঞ্জুর করিয়া সিদ্ধান্ত প্রদান করিলে উহার ভিত্তিতে ৭(সাত) দিনের মধ্যে একটি ডিক্রী প্রস্তুত করিবে এবং প্রয়োজনীয় ব্যবস্থা গ্রহনের উদ্দেশ্যে অবিলম্বে উক্ত রায় ও ডিক্রির অনুলিপি ট্রাইব্যুনাল ও জেলা প্রশাসকের নিকট প্রেরণ করিবে।”

(Underlines supplied)

4.5 It appears from the above quoted provisions of Section 4 of the said Act that the applicability of the provisions of the Code of Civil Procedure has been made very limited in that only the provisions

of the Code mentioned in the said Act will be applicable and specifically the provisions under Section 11 of the Code regarding res-judicata will be applicable. Upon examination of the entire provisions of the said Act, we have not found any Section or provision which indicates that Section 115 of the Code of Civil Procedure will be applicable in respect of a proceeding before the Tribunal under the said Act.

4.6 Not only that, we have also not found any indication therein as regards applicability of Order 1, rule 10 of the Code of Civil Procedure regarding the provision of addition of parties. However that does not mean that if such application or any other reasonable application is made, Tribunal will be helpless. Section 25 of the said Act has given some latitude in favour of the Tribunal's power. According to this provision, if it is found during disposal of the application or appeal by the Tribunal and Appellate Tribunal, that there is not enough provision in the said Act or rules made there-under, they may take recourse to any appropriate procedure or decision for ends of justice.

4.7 Therefore, even though Order 1, rule 10 of the Code of Civil Procedure has not been specifically mentioned in the said Act, we may safely hold that a party may be added in a proceeding before the Tribunal in a fit case by virtue of the application of the said provision under Section 25 if it is found by the Tribunal that

such addition is necessary for ends of justice. On the other hand, it appears from the above quoted provisions under Section 18 of the said Act that according to this provision, the decisions of the Tribunal may only be challenged in appeal before the Appellate Tribunal. It provides that only the decisions mentioned under sub-section (2) of Section 18 are appealable to the Appellate Tribunal and the correctness, legality or appropriateness of any other decision of the Tribunal cannot be questioned before the Appellate Tribunal or any other Court or authority and if such other decisions are questioned either before the Appellate Tribunal or any other Court or authority, such application shall be rejected forthwith. Sub-section (2) of Section 18 refers in fact to the final decision of the Tribunal either accepting or rejecting an application at the initial stage or a judgment allowing or disallowing such application after hearing. However, the proviso to sub-section (2) provides that the issues involving such interlocutory orders of the Tribunal may be raised at the time of hearing of the appeal before the Appellate Tribunal.

4.8 Therefore, upon careful examination of the above provisions under Section 4 and Section 18 and other provisions of the said Act, it appears that the applicability of the provisions of Section 115 of the Code of Civil Procedure has been clearly negated, which means civil revisional application cannot be maintained against interlocutory orders passed by the Tribunal. In this

regard, we have also examined the provisions under Section 31 of the said Ain, as this provision has been referred to in the said judgment of the single bench, namely in **Surotunnessa's Case.** For our ready reference, this provision may also be reproduced.

> "৩১। এই আইনের অধীনে ট্রাইব্যুনাল ও আপীল ট্রাইব্যুনালের বা কেন্দ্রীয় কমিটির কার্যক্রম Penal Code (XLV of 1860) এর Section 228 এ উল্লিখিত বিচারিক কার্যক্রম (Judicial Proceeding) ও Code of Criminal Procedure, 1898 (Act, V of 1898)- এর Section 480 তে উল্লিখিত Civil Court-এর কার্যক্রম বলিয়া গণ্য হইবে।"

4.9. It appears from the above quoted provision that the proceedings before the Tribunal and Central Committee have been given a certain status by the Legislature, which is that such proceedings shall be deemed as judicial and civil Court proceedings. Thus, certain activities in such proceedings shall draw the provisions of Section 228 of the Penal Code, 1860 and Section 480 of the Code of Criminal Procedure, 1898. Section 228 of the Penal Code penalizes any intentional insult or interruption to a public servant sitting in a judicial proceeding. On the other hand, Section 480 of the Code of Criminal Procedure empowers a Civil, Criminal or revenue Court to detain an offender during continuation of proceedings and take cognizance of offence and sentence the offender to certain amount of fine or simple imprisonment for a term which may extend to 1(one) month for commission of offence by him, during such proceedings, under Sections 175,178, 179, 180 or 228 of the Penal Code. Therefore, it appears that this provision under Section 31 has only given the

proceedings of the Tribunal and the Appellate Tribunal a status like the proceedings before a Court of law. Thus, under no circumstances, this provision has converted the proceedings before Tribunal and Appellate Tribunal constituted under Sections 16 and 19 of the said Act respectively into the proceedings of the Civil Court in order to make the interlocutory orders passed therein amenable to Civil Revisional Jurisdiction under Section 115 of the Code of Civil Procedure.

4.9 It has to be borne in mind that the Tribunal or the Appellate Tribunal constituted under the said Act have been constituted by the said Act only. Just because judicial officers have been assigned to be the presiding officers of such Tribunals or Appellate Tribunals does not epso-facto convert their proceedings into civil Court proceedings and does not also make the provisions of the Code of Civil Procedure automatically applicable to the proceedings before such Tribunals. The law by which the Tribunal or Appellate Tribunal has been established has itself provided the scope of such Tribunals and the procedure to be adopted by such Tribunals in disposing of applications filed by the applicants in order for release of certain properties from the list of returnable properties published in the gazette. The extent to which the provisions of the Code of Civil Procedure may be taken recourse to by such Tribunals in such proceedings has also been specifically provided by the said Act.

Therefore, as a Court of law, we cannot go beyond the specific provisions of the said Act as enacted by the Parliament.

4.10 Be it a lower judiciary or higher Court, it is the obligation of each and every Court to apply the law as it is as enacted by the Parliament, unless and until such law is declared unconstitutional by a competent Court. In this regard, we have also examined the decision of the said **Surotunnessa Case, 68 DLR-463** as decided by a single bench of the High Court Division. It appears from the said decision, in particular paragraphs 8 and 9 of the reported case, that the said single bench has intended to treat the Tribunal as a civil Court by reading the provision of Section 31 of the said Act and, accordingly, held that "*the proceedings of a tribunal under said Act shall be treated as the proceedings of the Civil Court. Further, a judge of the Arpita Sampatti Pratyarpan Appeal Tribunal is presided over by an Additional District Judge. So, against an order of the Arpita Sampatti Pratyarpan Appeal Tribunal, a revision under Section 151(1) of the Code of Civil Procedure is very much maintainable"*. With all respect to the author Judge of the said decision, we have no option but to ignore this view in deciding the case in hand on the ground that the said view was not a correct view of law. Had it been a decision of a division bench, we would have referred to this matter to the Hon'ble Chief Justice for constitution of a larger bench. But, since the said decision was given by a single bench, we may simply ignore the same for the reasons stated above.

4.11 In view of the above facts and circumstances, we are of the view that civil revisional application as preferred by the petitioner before the learned District Judge was not maintainable. At same time, the instant civil revision as preferred by the petitioner against the judgment of the learned District Judge, who unfortunately did not consider the issue of maintainability of the civil revision, is not maintainable.

4.12 Although we can stop this judgment at this point without going into other issues, we are of the view that for the sake of ends of justice, we should address another issue which is that both the petitioner and opposite No. 1 have filed two Arpito Shampatti Prottarpon Cases, namely Arpito Shampatti Prottarpon Case Nos. 26325 of 2013 and 247 of 2012, which are still pending before the same Tribunal, namely the Second Senior Assistant Judge and Arpito Shampatti Prottarpon Otirikto Tribunal, Narayangonj. Therefore, we hold that by application of the provision under Clause (Gha) of Section 17 of the said Act, both the cases should be heard by the same Tribunal analogously and, if necessary, the Tribunal should dispose of both the cases by one judgment.

4.13 In view of above, the Rule has no merit as the same is not maintainable. Accordingly, the Rule is discharged. The ad-interim order, if any, thus stands recalled and vacated. The Tribunal, namely the Second Senior Assistant Judge and Arpito Shampatti

Prottarpon Otirikto Tribunal, Narayangonj is directed to dispose of both the Arpito Shampatti Prottarpon Suit Nos. 26325 of 2013 and 247 of 2012 analogously and dispose of the same preferably within a period of 06 (six) months from receipt of the copy of this order.

4.13 Before parting, we convey our gratitudes to Mr. Probir Neogi, learned senior counsel.

Communicate at once.

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(Sheikh Hassan Arif,J)

I agree.

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(Ahmed Sohel, J)