

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

WRIT PETITION NO. 6256 OF 2003

Harisadhan Samaddar and another

...Petitioners

-Versus

Government of the People's Republic of Bangladesh  
represented by the Secretary, Ministry of Land  
Administration and Land Reforms, Bangladesh  
Secretariat, Dhaka, and 7(seven) others

Respondents

Ms. Purabi Saha, Advocate

...For the petitioners

Mr. A.K.M. Alamgir Parvez Bhuiyan, AAG

...For respondent No. 2

Present:

Mr. Justice Gobinda Chandra Tagore

and

Mr. Justice Mohammad Ullah

Heard on 19.11.2020

Judgment on 13.12.2020.

Mohammad Ullah, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, the *Rule Nisi* was issued calling upon the respondents to show cause as to why the impugned order dated 10.08.2003 issued by respondent No. 4 vide Annexure-G and the order of the respondent No. 3 issued under Memo No. Bhu: Ra:16/91/Khan-4/1995 dated 16.09.2003 (Annexure-J) should not be declared to have been issued without lawful authority and are of no legal effect and/or why such other or further order or orders as to this Court may seem fit and proper shall not be passed.

Pending hearing of the *rule*, the operation of the impugned order dated 10.08.2003 (Annexure-G) has stayed initially for 6(six) months, and subsequently, the period of stay was extended from time to time.

Shortly stated, the facts necessary for the disposal of the *rule* are as follows:

Petitioners' case:

The petitioners are the recorded owners in possession of the case property measuring 5.79 acres which they have owned and possessed for

more than 40(forty) years. During Bangladesh Survey (B.S.), names of the petitioners were duly recorded in the draft publication (DP Khatian) in different DP Khatians. Against DP Khatian Nos. 166 and 312 4(four) Objection Cases, namely 1, 2, 42, and 43 of 1999 were filed at the instance of the respondent Nos. 7 and 8. Respondent No. 7 succeeded in the objection proceedings initiated under rule 30 of the State Acquisition and Tenancy Rules, 1955 (henceforth referred to as the Rules, 1955). Against the said order dated 20.05.1999 passed by the Sub-Assistant Settlement Officer, Barishal in Objection Case Nos. 1, 2, 42, and 43 of 1999, the petitioners preferred Appeal Nos. 1326 of 1999, 1327 of 1999, and 1328 of 1999, while respondent No. 7 filed Appeal No. 1345 of 1999. Petitioners' appeals were allowed.

It has been stated that Nilkantha Samaddar, father of the petitioners, on 29.02.1956, purchased 3.09 acres of land from SA Khatian Nos. 218 and 235 under Mouza Alokdia through auction in Rent Suit No. 74 of 1956 of the then 5<sup>th</sup> Court of Munsif, Barishal and got delivery of possession on 12.02.1959; who got his name mutated vide Mutation Case No. 1275 JK/60-61 and paid rents up to 1377 BS. Harendra Lal Chakrabarty also purchased 82 decimals of land from S.A. Plot No. 323 of S.A. Khatian No. 217 of the same Mouza through an auction held in Rent Suit No. 76 of 1961 of the then 5<sup>th</sup> Court of Munsif, Barishal, and got delivery of possession on 03.10.1963 and got his name mutated vide Mutation Case No. 294.J.K./1964-65 and paid rents to the Government. On 04.08.1956, Harendra Lal Chakrabarty also purchased 1.15 acres of land from S.A. Plot No. 322 under SA Khatian No. 222 and 37 decimals from Plot No. 428 in total 1.52 acres of land in Benami of his relation Keshob Lal Bhattacharjee and others in Rent Suit No. 431 of 1948 of the then 5<sup>th</sup> Court of Munsif, Barishal. After purchase they got their names mutated vide Mutation Case No. 1283 J.K./60-61. The lands of SA Plot Nos. 316 and 321 under SA Khatian No. 219 was purchased by Harendra Lal Chakrabarty in Benami in the name of the petitioners' father, Nilkantha by a registered deed dated 20.02.1948. Harendra Lal Chakrabarty, while owning and possessing 2.70 acres of land in SA Khatian Nos. 217 and 219 gifted the same to the petitioner No. 1, Hori Sadan Samaddar, by registered deed dated 12.09.1970 and delivered possession to him, who got his name mutated vide through Mutation Case No. 653 J.K./1970-71 and paid rents up to 1377 B.S. In this way, the petitioners, having obtained 3.09 acres of land from their paternal properties and 2.76 acres of land by a registered deed of gift in total 5.79 acres have been possessing the same with the knowledge of all concerned for more than 40(forty) years.

Respondent No. 7 created some forged, fraudulent and collusive sale deeds dated 30.10.1961, which are nothing but paper transactions, and the same never acted upon. Respondent No. 7, by suppressing the actual facts, obtained the order in part from the Sub-Assistant Settlement Officer, Barishal. He had neither title nor possession in the case property. By order dated 12.03.2000, charge officer No. 1, having considered the papers and

documents and heard the contending parties, allowed Appeal Nos. 1327-1328 of 1999 in favour of the petitioners and thereby set aside the order dated 20.05.1999 passed by the Sub-Assistant Settlement Officer in Objection Case Nos. 1, 2, 42, and 43 of 1999 and dismissed Appeal No. 1345 of 1999 filed by respondent No. 7.

Considering an application filed by respondent No. 7, respondent No. 3, the Director of Land, Record, and Survey passed an ex-parte order dated 11.10.2001 directing respondent No. 4, Zonal Settlement Officer, Barishal Zone, to hear the Appeal Case Nos. 1326-1328 of 1999. Respondent No. 4, Zonal Settlement Officer by a Memo dated 23.10.2001 informed respondent No. 3 that the said Appeal Cases being heard on contest and disposed of on merit, the same cannot be reviewed again in accordance with the provisions of law (Annexure-B). Respondent No. 3 vide Memo dated 28.02.2002, having considered the said report dated 23.10.2001, recalled the earlier order dated 11.10.2001 directing review of the order of the Appeal Cases dated 12.03.2000 (Annexure-C). Thereafter, the name of the petitioners and their two brothers were correctly published in the draft publication, and the same was sent to the Zonal Settlement Officer, Barishal, after completing the required formalities. Respondent No. 4 vide Memo dated 05.07.2003 directed the Assistant Settlement Officer, Jhalokathi Sadar, to distribute the said printed Khatians to the respective owners of the land, including the petitioners (Annexure-D). Meanwhile, on 31.05.2003, respondent No. 3 issued an order directing respondent No. 4 to hear the Appeal Case Nos. 1326-1328 of 1999 afresh (Annexure-E). Respondent No. 4 vide Memo dated 02.07.2003 sent a report to respondent No. 3 stating that Appeal Case Nos. 1326-1328 of 1999 cannot be heard again in view his earlier order dated 28.02.2002, which was issued after recalling his previous order dated 11.08.2001, issued for re-hearing of the said Appeal Cases. Respondent No. 3 vide Memo dated 30.07.2003 directed respondent No. 4, Zonal Settlement Officer, Barishal, to act in accordance with Memo dated 31.05.2003 (Annexure-F). Respondent No. 4 pursuant to the said direction of respondent No. 3 vide order dated 10.08.2003 set aside the earlier appellate order of respondent No.5 dated 12.03.2000 quoting the provisions of sections 42 and 42A of the Rules, 1955 and directed respondent No. 6 to hear the said Appeal Cases again (Annexure-G). After that on 02.09.2003, respondent No. 6 sent notices to the petitioners and their two brothers fixing date on 11.09.2004 for hearing the Appeal Case Nos. 1326-1328 of 1999 afresh. The petitioners received the said notices on 09.09.2003 (Annexure-H). The petitioners appearing before the respondent No. 6, obtained time up to 30.09.2003. Thereafter on 16.09.2003, the petitioners filed an application to the respondent Nos. 2 and 3 for setting aside the earlier order dated 31.05.2003 and 31.07.2003 issued by respondent No. 3 and the order dated 10.08.2003 passed by respondent No. 4 as those orders are not tenable in law (Annexures-I and I-1). Respondent No. 3 issued a Memo dated 16.09.2003 directing respondent No. 4 to hear the said Appeal Case Nos. 1326-1328 of 1999 in accordance with the provisions of law

within one month (Annexure-J). On 11.10.2003, the petitioners applied to respondent No. 4 for obtaining the certified copies of his order dated 10.08.2003 but respondent No. 4 neither supplied the said copies nor replied against the said representation of the petitioners. On 10.08.2003, the petitioners have sworn an affidavit before the Notary Public of Bangladesh stating the said facts. Finally, the next date for the hearing of the said Appeal Cases was fixed on 25.10.2003.

None appears to contest the *rule*.

Mrs. Purabi Saha learned Advocate for the petitioners upon placing the relevant provisions of rules incorporated under chapter 7 of the Rules, 1955 submits that the Appellate Officer has not been given any power whatsoever to re-hear the appeal cases afresh which have already been disposed of under rule 31 of the Rules, 1955 and as such, the issuance of the impugned Memos are liable to be declared to have been issued without lawful authority and are of no legal effect.

The learned Advocate submits further that under the provisions of section 144(7) read with rules 32 and 33 of the Rules, 1955, names of the petitioners were finally published in the concerned record, but the impugned notices were issued by violating the express provisions of law and hence the same should be declared to have been issued without lawful authority and are of no legal effect.

The learned Advocate again submits that since the name of the petitioners were finally published, there should not be any scope to set aside the appellate order and re-hear the appeal cases afresh under rule 42 or 42A of the Rules, 1955, and as such, the decision of cancellation of the earlier appellate order as well as issuance of the impugned Memos should be declared to have been issued without lawful authority and are of no legal effect.

The learned Advocate again submits that after final publication of the record-of-rights in the name of the petitioners, the respondents had no jurisdiction to re-hear the appeal cases except challenging the same before the Land Survey Tribunal under section 145A of the Act, 1950 and as such, the Revenue Officer cannot invoke the jurisdiction even under rule 42A of the Rules, 1955 to re-hear the decision of the appellate authority afresh.

The learned Advocate next submits that Rule 42 provides special power to the Revenue Officer in respect of any portion of the proceedings referred to in rules 28-32 pertaining to any district, part of a district, or the local area, but it does not grant power to set aside or hear afresh a single entry or single khatian and as such, the impugned Memos should be declared to have been issued unlawful.

The learned Advocate finally submits that in the absence of any allegation of fraud as provided in Rule 42A, the Revenue Officer cannot set aside the order passed by the appellate authority on contest under rule 31, and he cannot hear the same appeal afresh, and as such, the impugned Memos have been issued arbitrarily for collateral purpose, and hence, the *rule* should be made absolute.

We have perused the materials on record and considered the submissions of the learned Advocate for the petitioners.

In the facts and circumstances as stated above, the question that survives for determination is that whether after disposal of the objection and appeal cases under the provisions of rules 30 and 31 of the Rules, 1955 the Revenue Officer with the additional designation of Settlement Officer was empowered to re-hear (फ़ैर ख़ैर) the settled issue upon setting aside the appellate order exercising power under Rule 42 or 42A of the Rules, 1955.

Since in the instant Writ Petition, the question of law is involved, we need not deem it necessary to record the case of the petitioners in this portion of the judgment. Moreover, the facts are already on record and have not been controverted by any of the respondents. It is the settled principle of law that the record-of-rights do not create or destroy any title. Admittedly, the draft publication of the record-of-rights involving the case properties were published in the name of the petitioners. Having been aggrieved by such recording, the respondent Nos. 7 and 8 filed objection cases under rule 30 of the Rules, 1955, wherein objection cases were allowed in their favour. Against which the petitioners preferred appeal and got order in their favour. From Annexure-L to the Supplementary Affidavit dated 03.12.2020, filed by the petitioners, it appears that DP Khatian Nos. 166, 312, 344, 345, and 346 had been finally prepared and published in the name of the petitioners under the provisions of section 144 of the SAT Act, 1950 read with rules 32 and 33 of the Rules, 1955. Therefore, no dispute remains about the final publication of the record-of-rights in the name of the petitioners after disposal of the objection and the appeal cases. However final publication could not be notified in the official Gazette due to the pendency of the present Writ Petition.

Chapter 7 of the Rules, 1955 deals with the procedures to be followed by the Revenue Officer for revision of the record-of-rights under section 144 of the Act, 1950.

Section 144 of the Act, 1950 provides that the Government may, in any case, if it thinks fit, make an order directing that the record-of-rights in respect of any district, part of a district, or the local area, be prepared or revised by a Revenue Officer, in accordance with such rule as may be made by the Government in that behalf inasmuch as section 78 of the Act, 1950 under Chapter XI has empowered the Government to make rule for carrying out the purpose of part 2, 3 and 4 of the Act, 1950. Maintenance and revision of record-of-rights subsequent to such publication of SA Khatian is covered by another Chapter, namely Chapter XXVII, under part 5 of the Act, 1950. Similar provisions have been made under this Chapter as well as for revision and preparation of the record-of-rights, namely for disposal of the objection cases and to the publication of the draft khatian as well as the publication of final khatian after disposal of the appeal, if any, against the same.

Section 142 of the Act, 1950 has empowered the Government to make rule for carrying out the purpose of this part, namely part 5, and

accordingly, the Government framed Tenancy Rules, 1955. In particular, the provisions under Chapters VI and VII of the said rules are framed for the purpose of carrying out the work and activities for maintenance and revision of the record-of-rights. We are concerned with the revision of record-of-rights in the cases in hand, and therefore we will consider the issue and examine the law applicable thereto as provided by Act, 1950 and Rules, 1955.

Chapter VII of the Rules, 1955 deals with the procedure to be adopted by the Revenue Officer for revision of record-of-rights under section 144 of the Act. After completion of attestation under rule 27 and instruction of the settlement department under rule 28, the revenue officer is required to provide an opportunity for raising the objection, if any, regarding the ownership or possession of land or of any interest in land; while disposing of the objection the Revenue Officer shall record the brief decision. Rule 28 sets out the procedure of the work, up to attestation.

Rule 29 prescribes that after completion of attestation, the Revenue Officer shall publish the draft record-of-rights by placing it for public inspection during a period of not less than one month at a convenient place as determined by him informing the persons concerned about the last date of filing objections under rule 30.

Rule 30 prescribes the procedure for making or giving objection in respect of the draft publication of record-of-rights, whereas rule 31 provides for the forum for preferring an appeal against the order passed under rule 30.

Before passing the final order of such an appeal, the contending parties shall be provided the opportunity to present their part of the case. After disposal of an appeal under rule 31, the Revenue Officer shall have to take the initiative for final publication of the record-of-rights on obtaining necessary permission from the Government to be issued by general or special order for printing of the same in manuscript according to rule 32. Under rule 33, the revenue officer shall publish the final record-or-rights within 30(thirty) days from the date of receipt of the general or special order of the Government. Rule 34 provides for issuing a certificate stating the facts of such final publication. The Government is empowered by sub-rule (2) of rule 34 to declare notification in the Official Gazette that the record-of-rights have been finally published with regard to a specific area for every village, and such notification shall be conclusive proof of such publication.

Rule 35 speaks about presumption as to the correctness of the record-of-rights. When a record-of-rights is finally published under rule 33, the publication shall be conclusive evidence that the record has been duly revised under section 144 of the Act, 1950. Every entry in a record-of-rights finally published shall be presumed to be correct until it is rebutted on taking evidence before the appropriate civil Court. In the instant case, we have already found that the final record-of-rights under section 144 (7) read with rules 32 and 33 of the Rules has already been prepared and finally published in the name of the petitioners (Annexure-L to the supplementary affidavit).

Now let us see the next course of action to be taken against such final publication.

Chapter VIII of the Rules, 1955 deals with the power of the Settlement Officer in revising the record-of-rights under section 144 of the Act. In accordance with rule 36, a Revenue Officer appointed with or without additional designation of the settlement officer or Assistant Settlement Officer for Revision of a record-of-rights under Chapter XXVII of the Act within any district, part of a district, or local area shall have the power to revise the same upon following the procedure as laid down in the Code of Civil Procedure, 1908 for the trial of suits; and to enter upon any land included within the area in respect of which an order under section 144 of the Act has been made to survey, demarcate and prepare a map of the same. Rule 40 empowers the Settlement Officer to initiate proceedings relating to objection under rule 30 and appeals under rule 31 for disposal by an Assistant Settlement Officer subordinate to him. Rule 41 empowers the Settlement Officer to withdraw cases from the file of any Assistant Settlement Officer or Revenue Officer subordinate to him relating to any of the proceedings under Chapter VII of the Rules, 1955 and to dispose of the same by himself or by transferring them to any other Assistant Settlement Officer or Revenue Officer subordinate to him for disposal, which is absolute administrative power.

Rule 42 provides special powers to the Revenue Officer appointed with the additional designation of the Settlement Officer who may at any time before the publication of the final record-of-rights direct that any portion of proceeding referred to in rules 28 to 32 in respect of any district, part of a district or local area shall be cancelled and to take up the proceeding afresh from such stage as he may direct.

As per rule 42A pursuant to a complaint or on receipt of an official report, the Revenue Officer with the additional designation of Settlement Officer has jurisdiction to correct a fraudulent entry in the record-of-rights upon consulting the relevant records and making other enquiry as he may deem necessary and direct excision of the fraudulent entry. However, before such excision, the contending parties shall be notified, giving the opportunity of personal hearing. Under Rule 42B, the Revenue Officer shall make corrections of obvious errors, i.e., arithmetical or clerical, before the final publication of the record-of-rights.

Rule 44 empowers the Director of Land, Records, and Survey to discharge all the aforesaid functions of a Revenue Officer as empowered under the aforesaid Rules, including rule 42.

Since the special power of a Revenue Officer is concerned here, let us quote Rules 42 along with Rule 42A of the Rules 1955.

*“Rule 42. Special Power of Revenue-officer appointed with the additional designation of Settlement Officer: - A Revenue-officer appointed with the additional designation of ‘Settlement Officer’ may, at any time before the publication of final record-of-rights, direct that any portion of the proceedings referred to in rules 28 to 32 in respect*

*of any district, part of a district, or local area, shall be cancelled and that the proceedings shall be taken up fresh from such stage as he may direct.*

*42A. Correction of fraudulent entry before final publication of record-of-rights- the Revenue-officer, with the additional designation of 'Settlement Officer' shall, on receipt of an application or on receipt of an official report for the correction of an entry that has been procured by fraud in record-of-rights before final publication thereof, after consulting relevant records and making such other enquiries as he deems necessary, direct excision of the fraudulent entry and his Act in doing so shall not be open to appeal. At the same time, the Revenue-officer shall make the correct entry after giving the parties concerned a hearing and recording his finding in a formal proceeding for the purpose of future reference."*

On a perusal of the provisions of rule 42, it appears that the Revenue Officer exercises jurisdiction in cancelling any portion of the proceedings referred to in rules 28-32 in respect of any district, part of a district or local area and directs the proceeding to be taken up afresh from such stage as he may direct.

The words "any portion of the proceedings" as appearing in rule 42 is to be understood relating to that in respect of any district, part of a district or local area, but not any single entry or a single record. So under rule 42 before final publication of the record-of-rights, the Revenue Officer can direct that any portion of the proceedings referred to in rules 28-32 only in respect of any district, part of a district or local area shall be cancelled and direct the proceeding to be taken up afresh from such stage as he may determine.

On the other hand, the Revenue Officer exercising power under rule 42A for correction of fraudulent entry before final publication of record-of-rights. The word fraudulent entry means a single entry, not entries in respect of any district, part of a district, or local area. So, there is a significant difference between the two powers as provided under rules 42 and 42A of the Rules, 1955 for the purpose of revising record-of-rights. In the absence of any allegation of fraud or on receiving an official report for the correction of any entry that has been procured by fraud in record-of-rights before final publication thereof, no proceeding under rule 42A can be initiated to excise such fraudulent entry. If the Revenue Officer specially empowered under rule 42 is allowed to cancel a single entry, the purpose of section 144 and Rules 32 and 33 of the Rules, 1955 shall be frustrated inasmuch as the law or the rule does not empower such Settlement Officer to do the same. Moreover, after completion of all objections and appeals as well as after publication of the final record-of-rights under section 144 (7) read with rules 32 and 33, there is another forum for an aggrieved person to challenge the decision of the appellate authority to the Land Survey Tribunal constituted under section 145A of the Act, 1950. Suppose someone aggrieved by the decision of the Land Survey Tribunal constituted under section 145A of the SAT Act in that case, he may prefer an appeal before the Land Survey Appellate Tribunal to be constituted under section 145B of the Act. Even an



aggrieved person can challenge the decision of the Land Survey Appellate Tribunal directly to the Appellate Division of the Supreme Court of Bangladesh under the provisions of section 145C of the Act, 1950.

In our earlier judgment in the case of Hossain Ali alias Hasan Ali Matbor and others Vs. Government of Bangladesh and others reported in 68 DLR (HCD) 37, wherein one of us was a party, held that before final publication of the record-of-rights, the Revenue Officer specially empowered under rule 42 can cancel any portion of the proceedings in respect of any district, part of a district or the local area including in respect of a particular khatian. In that case, it was the admitted fact that the record-of-rights had not been finally published in the name of the petitioners therein, and as such, in fact, we have taken the view that the Revenue Officer specially empowered under rule 42 can exercise his power provided therein.

Now we have again examined the provisions of rule 42 wherein it is found that the Revenue Officer shall has power at any time before final publication of the record-of-rights to direct that any portion of the proceeding in respect of any district, part of a district or local area can be cancelled and the proceedings shall be taken up fresh from such stage as he may direct but not in respect of a single entry of an area. We have already noted that if a Revenue Officer specially empowered under rule 42 to cancel a single entry, the other provisions of this Act after the final publication of the record-of-rights will become nugatory and meaningless. Since the law provides for other remedies for an aggrieved person to prefer suit before the Land Survey Tribunal after final publication of the record-of-rights in the official Gazette, this sort of special power of the Revenue Officer cannot be exercised under rule 42 of the Rules, 1955 in respect of a single entry. No doubt, for fraudulent entry if any person is aggrieved, he may take recourse to rule 42A for excision of such entry. So, in respect of a single entry, if someone fraudulently obtained the record-of-rights in his name, the law does not remain silent. He can take steps stating the reasons for the excision of such fraudulent entry under rule 42A.

In the present case, the petitioners' appeal was allowed by the appellate officer in their favour in respect of 3(three) or 4(four) entries, if the respondent Nos. 7 and 8 feel aggrieved upon such decision of the appellate officer, they may prefer suit before the Land Survey Tribunal after final publication of the record-of-rights in the official Gazette only. We do not find any application that has been filed alleging fraudulent entry in respect of the record-of-rights prepared in the names of the petitioners and as such in respect of such 3(three) or 4(four) finally published Khatian, the Revenue Officer with the additional designation of the Settlement Officer has no jurisdiction to invoke the provisions of rule 42. It has been categorically found that except rule 42 of the Rules, 1955 within the framework of the Act, 1950, the Legislation has not provided the option to the concerned Settlement Officer to hear the appeal afresh, which has been finally disposed of earlier under rule 31 of the Rules, 1955. However, we have already

recorded that exercise of power under rule 42 is very restricted and may be invoked by the Settlement Officer at any stage before final publication of the record-of-rights referred to in rules 28-32 with regard to any district, part of a distinct or local area that means inclusive Mouza or part of a Mouza but not with regard to an individual entry or Khatian. The Act, 1950 or Rules, 1955 does not provide special power to the Settlement Officer to interfere in a final publication of a single entry.

We have no hesitation to say that the impugned order cancelling the decision of the appellate authority was passed beyond the provisions of law and Rules, and the same should be declared to have been issued unlawfully, without jurisdiction, and shall have no legal effect. Only the recourse to an aggrieved party remains in preferring a suit to the Land Survey Tribunal challenging the decision of the appellate authority; otherwise, the purpose of establishing Land Survey Tribunal will become futile and or inept and useless. However, the parties aggrieved against the decision of the appellate authority shall require to wait until the final publication of the record-of-rights in the official Gazette.

In the instant case, from the Annexure-L, namely “Q”s; 1 paÉçmçf fEQj-II CçÙ¹qjI” we have found that the final record-of-rights have been prepared and published in the name of the petitioners under the provisions of section 144(7) read with rules 32 and 33. However, the said final publication could not be published in the official Gazette due to the pendency of the present Writ Petition. But preparation and publication of the final record-of-rights certainly has a legal force and has been bearing a legal presumption of its correctness until and unless such presumption is rebutted by someone who intends to say something otherwise through a competent civil court.

Besides, every person shall have a remedy before the civil Court to establish his right to property guaranteed under the Constitution.

In the attending facts and circumstances, since the record-of-rights has been finally published in the name of the petitioners, the respondents, if aggrieved, have ample opportunity to challenge the decision of the appellate authority to the Land Survey Tribunal after final publication of the record-of-rights in the official Gazette. For the reasons stated aforesaid, the impugned orders must be held to be illegal and unauthorized and have been issued without jurisdiction and therefore cannot be sustained in law.

Accordingly, the *rule* is made absolute.

The impugned orders dated 10.08.2003 and 16.09.2003 (Annexures-G and J) are hereby declared to have been passed/issued without lawful authority and are of no legal effect.

However, there would be no order as to costs.

Gobinda Chandra Tagore, J:



I agree.