

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

WRIT PETITION NO. 1491 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:

Hasina Alam

... Petitioner

-Versus-

Government of Bangladesh, represented
by the Secretary, Ministry of Housing and
Public Works and others.

... Respondents

Mr. Bivash Chandra Biswas, Senior Advocate
with

Ms. Songiukta Dobay, Advocate

...For the petitioner

Mr. A.S.M. Mokter Kabir Khan, D.A.G.
with

Mr. Mohammad Mohsin Kabir, D.A.G.
with

Mr. Mostafizur Rahman (Tutul), A.A.G.,

Mr. Md. Fuad Hasan, A.A.G.,

Mr. Md. Moniruzzaman, A.A.G.,

Ms. Sonia Tamanna, A.A.G. and

Mr. Ashraful Alam, A.A.G.

... For the Respondents

Heard on: 20.08.2025

Judgment delivered on: 25.08.2025.

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Md. Bashir Ullah

Md. Bashir Ullah, J.

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule *Nisi* was issued calling upon the respondent Nos. 1-5 to show cause as to why the letter No. রাঃবেঃবিঃ/ঢাকা/১৯৭৪ dated 03.07.2018 issued and signed by respondent No. 2, forwarded to respondent No. 5 stating 'বাড়ী নং-২-এইচ/৯-২০ মিরপুর ঢাকাস্থ পরিত্যক্ত বাড়ির মূল্যায়ন প্রতিবেদন প্রেরণ প্রসঙ্গে' assessing the valuation of the Abandoned House at Taka 66,68,626/- (Annexure-L to the Writ Petition) should not be declared to have been passed without lawful authority and is of no legal effect and/or 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, this Court also stayed operation of the order being Memo No. রাঃবেঃবিঃ/ঢাকা/১৯৭৪ dated 03.07.2018 issued and signed by the respondent No. 2 for a period of 06(six) months, which was lastly extended on 27.05.2025 for a period of 01(one) year.

The respondents were also directed to maintain *status quo* in respect of the possession of House No. 2-H/9-20, Mirpur, Dhaka, for a period of 06(six) months, which was lastly extended on 27.05.2025 for a period of 01(one) year.

The relevant facts leading to the issuance of the Rule are that House No. 2-H/09-20, Mirpur, Dhaka was declared abandoned property under the provision of President's Order No. 16 of 1972

and in 1972, the Government decided to allot abandoned properties to freedom fighters and their families and accordingly, House No. 2-H/09-20, Mirpur Dhaka was allotted to the Family of a freedom fighter namely, Md. Shafiul Alam, in the name of his wife, Hasina Alam. Md. Shafiul Alam went to Iraq for business purposes, and during that time, a war broke out between Iraq and Kuwait. He was stranded in Iraq and returned to Bangladesh in 1992. (approximately three years later). The petitioner, with the assistance of her husband, regularly paid the rental dues. Subsequently, the authority issued a sale proposal being No. এপি-৯৯/২৫৬/৮২/৯৪৫৯ dated 19.11.1988 (Annexure-J to the Writ Petition) infavour of the petitioner fixing the price of the house at Taka 1,78,732/- and the petitioner deposited the down payment of Taka 35,746.40 within the stipulated time through Bank Draft No. 2577356 dated 18.12.1988 of Sonali Bank, Tanbazar Branch, Narayangonj which was duly accepted by the authority. The petitioner thereafter filed an application to Bangladesh Muktiyuddha Sangshad stating her economic hardship whereupon the Sangshad sent a letter on 25.04.1995 to the Ministry of Housing and Public Works requesting special consideration in favour of the Hasina Alam being the wife of a freedom fighter.

Afterwards, the Assistant Commissioner, the Abandoned Property Management Board, by a letter No. সা/৯৯/এপি-২৫৬/৮২/৫৯৯ dated 20.07.2002 (Annexure-C to the Writ Petition) informed the

petitioner whether the petitioner was willing to purchase the abandoned house, directing her to respond within 01(one) month. Though the letter was issued and signed on 20.07.2002, the same was not served upon the petitioner personally. Subsequently, the petitioner filed an application on 19.01.2003 stating that “আপনার অবগতি ও পরবর্তী ব্যবস্থা গ্রহণের জন্য জানাইতেছি যে, আমি বর্তমান মূল্যে বাড়িটি নিতে রাজি আছি” but the authority did not give any reply. Then the petitioner filed another application to the State Minister of the concerned Ministry on 29.11.2004.

The further case is that the petitioner paid Taka 9,49,736.33 as rent for the period 01.05.1972 to 31.07.2006, which payment was admitted by the Executive Engineer, Public Works Maintenance Division, Dhaka by his letter dated 02.08.2006 (Annexure-F to the Writ Petition). Thereafter, the Executive Engineer, Public Works Management, Distribution, Dhaka, by his Memo No. রঃনেঃবিঃ/ঢাকা/২০৬৮ dated 23.05.2007 demanded additional sum of Taka 52,289.27 and accordingly, the petitioner paid Taka 52,290/- through the Central Bank. The subsequent demand dated 01-03-2015 issued by the Executive Engineer for Taka 24,08,799.27 as arrears is not correct. It has been also contended that respondent No. 5 directed respondent No. 2 to assess the value of the land and building thereon, and accordingly, a valuation was made showing the value of the property in question at Taka 66,68,626/ on 27.06.2018, and thereafter,

respondent No. 2 issued Memo No. রংবেংবিং/ঢাকা/১৯৭৪ dated 03.07.2018 to the respondent No. 2 (Annexure-L to the Writ Petition). Previously, the price of the same property had been fixed at Taka 1,78,732/- under Memo No. এপি/শাখা/২৫৬/৮২/১৪৫৯ dated 19.12.1988 which has never been cancelled, and as such, the subsequent assessment of valuation of the case property at Taka 66,68,626/- on 03.07.2018 is without lawful authority and of no legal effect.

Being aggrieved and having no other equally efficacious remedy, the petitioner then approached this Court by filing the instant writ petition under Article 102 of the Constitution of the People's Republic of Bangladesh, whereupon the instant Rule was issued.

Mr. Bivash Chandra Biswas, the learned Senior Advocate appearing for the petitioner, contends that the petitioner paid Taka 9,49,738/- as rent and hence she cannot be treated as a defaulter.

He further submits that under Memo No. এপি/শাখা/২৫৬/৮২/১৪৫৯ dated 19.11.1988, the value of the case property was assessed at Taka 1,78,732/- and the said sale proposal was never cancelled and as such, the subsequent valuation of the case property at Taka 66,68,626/- on 03.07.2018 cannot be sustained, and is without lawful authority and is of no legal effect.

The learned senior counsel next submits that the petitioner, as the wife of a freedom fighter, was allotted the property in

question in 1972, and since then has remained in possession by paying house rent regularly and as such the impugned order is without lawful authority and is of no legal effect.

The learned counsel also submits that the petitioner did not violate any condition embodied in the Memo, being No. এপি/১১/২৫৬/৮২/১৪৫৯ dated 19.11.1988 and as such the petitioner cannot be denied to have property or purchase by depositing Taka 1,78,732/-and thus the impugned order is without lawful authority and is of no legal effect.

At the fag end, the learned senior counsel submits that the petitioner is willing to pay the assessed amount to purchase the property in instalments.

With these submissions, the learned counsel finally prays for making the Rule absolute.

Per contra, Mr. Mohammad Mohsin Kabir, the learned Deputy Attorney General appearing for the respondents, contends that the petitioner was given the opportunity to purchase the property at Taka 1,78,732/- only, but she paid Taka 35,746.40 only and failed to pay the rest instalments earlier. Since the petitioner failed to pay the rest instalment within the stipulated period mentioned in the Sale Proposal dated 29.11.1988, the proposal has stood cancelled under condition No. 18 of the Sale Proposal.

He next submits that the engineers of the Department of Maintenance of Housing and Public Works carried out an

assessment of valuation of House No. 2-H/9-20, Mirpur, Dhaka under SRO No. ২৬৭-আইন/২০১৫ dated 25.08.2015 issued by the Ministry of Housing and Public Works following the provisions of Rule 8 of Abandoned Property (Building in Urban Areas) Rules 1972. So, there is no illegality or infirmity in issuing the impugned letter, being No. রঃবেঃবিঃ/ঢাকা/১৯৭৪ dated 03.07.2018 (Annexure-L to the Writ Petition).

He next submits that the petitioner is a rent defaulter since 31.07.2006 as she did not pay any rent and thus she is not entitled to any relief from this Court.

With these submissions, the learned Advocate prays for discharge of the Rule.

We have considered the submissions advanced by the learned counsels for both the parties and perused the writ petition, supplementary affidavit and annexure filed thereto carefully.

It appears that the Assistant Secretary and Authorised Officer of Public Works Maintenance issued a Sale Proposal under Memo No. এপি-১১/২৫৬/৮২/১৪৫৯ dated 19.11.1988 in favour of the petitioner offering to purchase the abandoned property in question at Taka 1,78,732/-. The petitioner paid the first instalment of Taka 35,746.40 as per condition No. 3 of the said Sale Proposal. Ultimately, the petitioner failed to pay the rest instalment complying with the payment schedule. Subsequently, the petitioner filed application to the Chairman, Abandoned Property

Management Board on 19.01.2003 stating that ‘আপনার অবগতি ও পরবর্তী ব্যবস্থা গ্রহণের জন্য জানাইতেছি যে, আমি বর্তমান মূল্যে বাড়িটি নিতে রাজি আছি। যদিও বর্তমান রেইট কি আমি জানি না। আশা করি আমার সাপেক্ষে মধ্যে মূল্য নির্ধারণ করতঃ সুযোগ দানে বাধিত করিবেন।’ After that the petitioner filed another application on 29.11.2004 to the Minister of State, Ministry of Housing and Public Works stating that ‘এহেন নিঃস্ব পরিস্থিতিতে ৩০.০৫.১৯৯৪ ইং তারিখের ভিতর বকেয়া কিস্তি পরিশোধ করিতে আমি ব্যর্থ হই। ... মানবিক কারণে উচ্ছেদ আদেশ প্রত্যাহার করে আমাকে বাড়ির মূল্য পরিশোধ করার অনুমতি প্রদান পূর্বক বরাদ্দ দিয়া এই দুস্থ পরিবারটির বেঁচে থাকার একমাত্র সম্বলটিকে সংরক্ষণ করিতে আপনার আজ্ঞা হয়।’ Thereafter, the engineers of the Department of Maintenance of Housing and Public Works carried out an assessment of valuation of House No. 2-H/9-20, Mirpur, Dhaka under SRO No. ২৬৭-আইন/২০১৫ dated 25.08.2015 issued by the Ministry of Housing and Public Works following the provisions of Rule 8 of Abandoned Property (Building in Urban Areas) Rules, 1972 and fixed the value of the abandoned property at Taka 66,68,626/-. However, the petitioner declined to accept the price and filed this instant writ petition. It is admitted that the petitioner has been in continuous possession of the abandoned property since 1972. So, she acquired right to purchase the same. However, she failed to purchase the same earlier according to the price offered due to her failure and negligence having no scope to give the property to the petitioner at the earlier price.

The record shows that the petitioner has been in possession of the property in question for a long time. Earlier, the respondent No. 7 offered her to purchase the property, issuing a বিক্রয় প্রস্তাব (আবাসিক বাড়িঘর) (Sale Proposal) by fixing the value at Taka 1,78,732/- on 19.11.1988. Upon receipt of the sale proposal, petitioner deposited the first instalment of Taka 35,746.40. Subsequently, a price has been fixed on 27.06.2018 at Taka 66,68,626/-

However, it is our considered view that justice will be best served if the petitioner is allowed to purchase the abandoned property at the price assessed by the concerned engineers of the Department of Maintenance of Housing and Public Works at Taka 66,68,626/- on 27.06.2018.

In view of the above facts and circumstances, we feel it expedient to direct the respondent to take necessary step in transferring the property in question to the petitioner at Taka 66,68,626/- allowing the petitioner to pay the said amount in one year from the date of receipt of a copy of this judgment.

Resultantly, the Rule is disposed of with the following direction, without any order as to costs.

The respondents are directed to allow the petitioner to purchase the property in question, that is, House No. 2-H/9-20, Mirpur, Dhaka, at the price of Taka 66,68,626/- and allow her to pay the said amount setting instalments to be paid the said amount

within 01(one) year from the date of receipt of a copy of this judgment in default to pay any installment as set by the respondent, the above direction shall stand cancelled, and in that event, the respondent shall be at liberty to deal with the property in accordance with law.

The respondents are further directed to execute and register a sale/lease deed in favour of the petitioner upon full payment of Taka 66,68,626/-.

The petitioner is directed to pay arrear rents if remains outstanding along with the above sale price.

The order of stay granted at the time of issuance of the Rule stands recalled and vacated. However, the order of direction to maintain *status quo* in respect of possession of House No. 2-H/9-20, Mirpur, Dhaka, by the petitioner will continue for 01(one) year from the date of receipt of a copy of this judgment by the respondents.

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

Md. Mozibur Rahman Miah, J.

I agree.