

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

WRIT PETITION NO. 6589 OF 2013

In the matter of:

An application under Article 102 of the
Constitution of the People's Republic of
Bangladesh.

And

In the matter of:

Hafiza Khatun

... Petitioner

-Versus-

The Government of Bangladesh, represented
by the Secretary, Ministry of Land and others.
... Respondents

None appears.

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

... For the Respondent No.1

Mr. Abdul Baten, Advocate

...For the Respondent No.9

Heard on: 19.08.2025
Judgment delivered on: 21.08.2025.

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 respondents to show cause as to why the Order No. 9 dated 04.03.2013 (Annexure-C to the writ petition) passed by the Arpito Shampatti Prottarpon Additional Tribunal No. 2, Narayangonj in Arpito Shampatti Prottarpon Case No. 257 of 2012 (Annexure-A to the writ petition) rejecting the petitioner's application for addition of party under section 25 of the Arpito Shampatti Prottarpon Ain, 2001 (as amended up to 2013) should not be declared to have been passed without any lawful authority and to be of no legal effect and /or pass such other or further order or orders as to this Court may seem fit and proper.

At the time of issuance of the Rule, this Court stayed all further proceedings in Arpito Shampatti Prottarpon Case No. 257 of 2012 (Annexure-A) for a period of 03(three) months, which was subsequently extended from time to time and it was lastly extended till disposal of Rule on 30.01.2024.

The relevant facts leading to issuance of the Rule are that, the respondent No. 9 as plaintiff instituted Arpito Shampatti Prottarpon Case No. 257 of 2012 before the Arpito Shampatti Prottarpon Tribunal, Narayangonj on 29.08.2012 impleading respondent Nos. 3, 5 to 8 as defendants. The plaintiff's case *inter alia* is that one, Darikanath Mazi was the C.S. recorded tenant of *Khatian* No. 55, Plot No. 254. After the demise of Darikanath Mazi his son, Girish Chandra Mazi succeeded him. Similarly, Raju Vuimali and Brojo Vuimali were recorded tenants of C.S. *Khatian* No. 101, Plot No. 255. After their death, their respective successors, Joshod Chandra Mali, Dengur Chandra Mali and

Bochai Chandra Mali transferred 7.50 decimals of land from Plot No. 255, corresponding to S.A. Plot No. 312 to one, Vanu Roy by Sale Deed No. 6957 dated 15.09.1959. On the other hand, Girish Chandra Mazi in his turn transferred 4.50 decimals of land from Plot No. 254, corresponding to S.A. Plot No. 313 to one, Meghi Dashi by Sale Deed No. 2142 dated 21.03.1963. Subsequently the S. A. *Khatian* for 17 decimals of land of plot No. 312 and 313 was prepared in the name of Girish Chandra Mazi. Thereafter Vanu Roy and Meghi Dashi transferred 12 decimals of land to the plaintiff by Sale Deed No. 4349 and 4350, both dated 29.06.1974. Since then the plaintiff has been in possession of the suit property and has mutated his name and obtained loans from various financial institutions by mortgaging the suit land. On 02.10.2007 defendant No. 3 issued an illegal notice to the plaintiff claiming the suit property as vested property. Upon obtaining certified copies of the R. S. *Khatian* on 16.10.2007, the plaintiff discovered discrepancies therein and filed Title Suit No. 46 of 2008, seeking a declaration of title over the suit property which was decreed on 05.01.2012 in his favour. However, the Government did not prefer any appeal against the said judgment. The suit property has been included wrongly in the 'Ka' schedule of Vested Property and the same is liable to be released from the said list, hence the suit was filed.

On 20.02.2013, the petitioner filed an application under Section 25 of the Arpito Shampotti Prottarpon Ain in Arpito Shampotti Prottarpon Suit No. 257 of 2012 praying for adding her as defendant in the suit contending *inter alia* that entire 17 decimals land in S.A. Plot

No. 312 and 313 of Mouza-Gangakul, Police Station Bandar, District-Narayangonj is vested property as Girish Chandra Mazi and Vanu Roy were the S.A. recorded owners who left the country during India Pakistan war in 1965 and their family never returned in this country and consequently the Government took possession of the property. It has also been stated that the husband of the petitioner, Badiur Rahman took shelter in the suit land and thereafter he on 29.06.1966 sought lease of the said property and obtained the same vide Case No.227/67. Badiur Rahman died in 1971 leaving behind the petitioner as wife and 4 children.

The petitioner also filed an application on 26.12.1989 before the Additional Deputy Commissioner (Revenue) for including her name by striking out the name of her husband and accordingly lease was granted in her favour on 09.04.1990 by Memo No. 114 in Lease Case No. 32/85 and the tenure of lease then renewed up to 1396 B.S. and she still remains in possession in the suit property.

It has also been contended that, one Hafizur Rahman filed Title Suit No. 20 of 1995 before the then Sub-ordinate Judge, Narayangonj claiming title over the suit property and lost up to the Appellate Division and all the courts including the Appellate Division declared the suit property as non-resident and vested property. The petitioner alleged that respondent no. 9 instituted the present suit by suppressing the material facts and that she is a necessary party in the suit prayed for adding her as defendant for proper adjudication.

However, upon hearing, the learned Judge of the Tribunal (respondent No. 3) rejected the application for addition of party filed by the petitioner.

Being aggrieved and having no other equally efficacious remedy, the petitioner then approached this Court by filing the instant writ petition, where upon the instant Rule was issued.

It has also been argued in the writ petition that the petitioner has been a lessee since 1967 through her husband and resides in the suit land with her family members and the petitioner is entitled to contest the suit but the learned Judge of the Tribunal failed to exercise the jurisdiction under Section 25 of the Arpito Shompatti Prottarpon Ain, 2001 (as amended up to 2013).

It is further been asserted that the writ petitioner as a lessee of the suit property has a legitimate expectation to defend her interest in the suit property.

It has also been averred that, Section 25 of the Arpito Shompatti Prottarpon Ain, 2001 provides wide discretionary powers to the Tribunal to pass necessary order for the ends of justice and Section 27 grants a preferential right to a lessee under the Government and thus the Tribunal erred in law rejecting the application and as such the impugned order is liable to be declared to have been passed without any lawful authority and to be of no legal effect.

Per contra, Mr. Abdul Baten, learned Advocate appearing on behalf of respondent No. 9 contends that the learned Joint District Judge, First Court, Narayangonj decreed Title Suit No. 46 of 2008 on

05.01.2012 in favour of respondent no. 9 declaring that the suit property is not vested property and the Government subsequently mutated the suit land in favour of respondent No. 9 and accepted rent, and thereby acknowledged his ownership and possession over the suit land.

He further contends that the petitioner is a mere lessee and she has no right, title and ownership in the suit land and hence she is not a necessary party to the suit and as such the Tribunal has rightly rejected the application for addition of party and she has no *locus standi* to file the instant writ petition and hence the Rule is liable to be discharged.

We have heard the submissions of the learned Advocate for the respondent no. 9 and perused the records, writ petition, application and annexure.

It appears from the record that the writ petitioner claimed to be a lessee in the property in question who took lease from the government and paid lease rent up to 1396 B.S as lessee of the property but she has no *locus standi* to file the instant writ petition. In this regard we may profitably rely on the decision passed in ***Aroti Rani Paul vs. Sudarshan Kumar Paul and others***, 56 DLR (AD) 73 where our Apex Court held as under:

“...it is the defendant Nos. 6-8, being lessees of the Vested Property for one year, cannot have any *locus standi* to challenge the decree or prefer an appeal against such decree. It is for the Vested Property Authority to challenge the decree. We therefore,

hold that the defendant Nos. 6-8 being year to year lease holders had no *locus standi* to prefer any appeal before the appellate Court as well as in the High Court Division and, as such, the learned Single Judge of the High Court Division having failed to consider this aspect of the case, committed an error of law which resulted in an error in the decision causing failure of justice.”

In view of the above *ratio* passed by the Appellate Division, in ***Fahmida Begum and others vs. Government of Bangladesh and others***, case reported in 25 BLT 292, it was decided that, since the petitioners claimed themselves to be year-to-year lessee of the property in question, the writ petition was not maintainable on the ground of *locus standi*.

It is admitted position that the petitioner is a lessee without any right, title and interest in the suit property. The settled principle of law as laid down by the Appellate Division in ***Aroti Rani Paul vs. Sudarshan Kumar Paul and others*** (supra) and reaffirmed in ***Fahmida Begum Vs. Government of Bangladesh and others*** (supra) that a lessee has no *locus standi* to challenge or contest Arpita Sampatti (Vested Property) proceedings. A lessee typically cannot be added as a party in an Arpitta Sampatti Prottarpan case. The core issue in the said Arpitta Shampatti case is whether the suit land should be released from the gazette as vested property and the Government is a principal defendant in such a suit. The petitioner as lessee has nothing to do with

such suit. We are thus of the view that the petitioner, being a lessee has no interest in the disposal of suit and thereby she is neither a necessary nor a proper party in the Arpita Sampatti Prottarpan Case and her presence is not required for effective adjudication of the matter in dispute.

Regard being had to the above facts and circumstances, we do not find any illegality or impropriety in the impugned order dated 04.03.2013 passed by the Arpita Shampati Prottarpon Additional Tribunal No.2, Narayangonj and the Tribunal rightly exercised its jurisdiction in rejecting the petitioner's application under section 25 of the Act.

We find no substance in the Rule which is liable to be discharged.

Resultantly, the Rule is discharged, however without any order as to costs.

The order of stay granted at the time of issuance of the rule stands recalled and vacated.

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

Md. Mozibur Rahman Miah, J.

I agree.