

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
Writ Petition No.14439 of 2018

In the matter of:

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

-And-

In the matter of:

Khulna Jute Workers Institute

----- Petitioner

-Versus-

The Government of the People's Republic of Bangladesh and others.

----- Respondents

Mr. Partha Sarathi Mondal, Advocate

----- For the Petitioner.

Mr. Md. Saiefuddin Khaled, D.A.G with

Mrs. Afifa Begum Swapna, A.A.G and

Mr. Sarwar Akhtar Masud, A.A.G

..... For the Respondents.

Present:

Mr. Justice Md. Nazrul Islam Talukder

And

Mr. Justice Khizir Hayat

Heard & Judgment on: 15.10.2023

Md. Nazrul Islam Talukder, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh, this Rule Nisi, at the instance of the petitioner, was issued calling upon the respondents to show cause as to why the impugned judgment and decree dated 10.05.2018 passed by

the learned (Joint District Judge), Land Survey Tribunal, Khulna in Land survey Tribunal Suit No.862 of 2013 (**Annexure-D and D1** to the writ petition respectively) dismissing the suit should not be declared to have been passed without lawful authority is of no legal effect and/or pass such other or further or further order or orders as to this court may seem fit and proper.

The above-mentioned writ petition has been filed challenging the judgment and decree dated 10.05.2018 passed by the learned Judge, Land Survey Tribunal, Bagerhat in Land Survey Tribunal Suit No. 2120 of 2015.

The learned Advocates for the petitioner and the respondents conjointly, submits that this writ petition may be disposed of directing the learned Judge of the Land Survey Appellate Tribunal to dispose of the appeal if filed by the petitioner since Land Survey

Appellate Tribunal has already been established in the respective districts through Gazette notification.

It may be noted that due to non-existence of appellate forum at the relevant time of passing the decree, the petitioner could not prefer appeal challenging the said judgment and decree. Thus, having no alternative forum, the petitioner filed this writ petition challenging the said judgment and decree and obtained the present Rule Nisi.

Now, by the State Acquisition and Tenancy (Amendment) Act, 2023, the appellate forum has been established and on 23.08.2023, the name of the Land Survey Appellate Tribunal, has been Gazetted. In the circumstances, this Court delivered a judgment and order on 04.12.2023 analogously disposing of Writ Petitions No. 5135 of 2018, 12559 of 2022, 11772 of

2022, 3743 of 2018, 12797 of 2022, 16281 of 2016, 2210 of 2022 and 7203 of 2022 allowing the respective writ petitioners to prefer appeals before the newly established Land Survey Appellate Tribunals of the respective districts with a direction to the Land Survey Appellate Tribunal to consider their appeals and applications for condonation of delay, if filed, in accordance with section 14 read with section 29 of the Limitation Act.

In the said judgment and order dated 04.12.2023, this Court observed as under:

“From the above order, it is apparent that due to non-existence of the Land Survey Appellate Tribunal, the Apex Court extended the force of order of status quo till 03 (three) months from the date of establishment of the

said Appellate Tribunal. But here in these matters, 3 months limitation period have already been passed from the date of establishment of appellate forum. Yet on identical circumstances, we consider that due to non existence of Land Survey Appellate Tribunal, the writ petitioners could not challenge the impugned judgment and decree or order and this situation led them to file writ petitions obtaining Rules Nisi in their respective writ petitions. Thus, they have remained under the litigations before this Court so long.

Now, since the appellate forum has been established, the petitioners are at liberty to prefer the appeal.”

In view of the above-mentioned judgment and order dated 04.12.2023, the Rule Nisi issued in the present writ petition is disposed of with the following directions:

- (i) The petitioner is at liberty to prefer appeal before the Land Survey Appellate Tribunal with an application for condonation of delay and, if so filed, the Appellate Tribunal shall consider the application as well as the appeal in accordance with section 14 read with section 29 of the Limitation Act.
- (ii) The petitioner and the respondents are at liberty to take back all the original certified copies annexed with the

respective writ petitions or affidavits in opposition or application(s) or affidavit(s) on furnishing photocopies thereof duly attested by the respective learned Advocates.

(iii) The parties are directed to maintain status-quo in respect of position and possession of the land in question till disposal of the case/appeal if any.

(iv) The learned judge of the appellate tribunal is directed to dispose of the case/appeal if any within 1(one) year from the date of receipt of this judgment and order.

With aforesaid observations and directions, this Rule is disposed of.

Communicate the judgment and order to the learned Judge of the concerned Land Survey Appellate Tribunal, at once.

Khizir Hayat, J:

I agree.