

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

Present

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice Md. Riaz Uddin Khan

Civil Revision No. 1672 of 1993

IN THE MATTER OF:

An application under Section 115 of the Code of Civil Procedure
-And-

IN THE MATTER OF:

Md. Nazrul Islam

... Petitioner

Versus

The Government of Bangladesh and another

... Opposite Parties

None

... For the Petitioner

Ms. Nahid Hossain, DAG

... For the Opposite Parties

Judgment on: 21.08.2025

Md. Riaz Uddin Khan, J:

Rule was issued calling upon the Government of Bangladesh and another to show cause as to why the judgment and order dated 09.11.1992 passed by the District Judge, in Arbitration Appeal No. 179 of 1991, should not be set aside and/or such other or further order or orders should not be passed as to this Court may seem fit and proper.

Facts for disposal of this Rule is that total 0.81575 acres of Bhati, Chala, Nal and Ditch class of land at CS Plot Nos. 722, 822, 823, 888 and 895 of Mouza Katasur, Police Station Mohammadpur, Dhaka belonged to the petitioner which was acquired in L.A. Case No. 24 of 1988-89 under the Emergency Requisition of property Act, 1989 (Act No.IX of 1989)(hereinafter referred to as the Act) for

flood control Barrage by the Government in favour of the opposite party No.2, Dhaka Pourashava, now Dhaka City Corporation. And a sum of Taka 6,91,699/41 was paid as compensation on 25.3.1991 by the Deputy Commissioner. The petitioner accepted the money with objection as compensation being insufficient and filed Arbitration Revision Case No. 81 of 1991 in the Court of the Sub-Ordinate Judge (Arbitrator), Dhaka on 3.4.1991 claiming compensation at Taka three crore per acre for 0.09075 acre of Bhiti land, Taka 7,22,500/00 at Taka two crore forty lac per acre for 0.2950 acres of Chala land, Taka 70,80,000/- at Taka one crore twenty lac per acre for 0.3300 acre of nal land, Taka 39,60,000/- of CS Plot Nos. 772 & 895 and Taka 12,00,000/ for 0.10 acre of nal land which was considered as ditch class of land of CS Plot No. 895 totaling Taka 1,49,62,500/- for total 0.81575 acres of land with 25% additional Compensation equivalent to Taka 37,40,675/- under Section 12(2) of the said Act amounting to grand total of Taka 1,89,03,123/00.

The Government appeared and contested the said Revision Case by filing written objection denying the claims of the petitioner stating *inter alia* that the compensation was sufficient relying on sale figures of deeds of the local sub-registry office available in 12 months preceding from notice under section 4(1) of the Act.

The Arbitration Revision Case was heard and disposed of by judgment and order dated 30.6.1990 allowing Taka 14,66,16/34 at the rate of Taka 1,61,77.921/30 per acre for 0.09075 acre of Bhiti land, Taka 39,77,310/90 @ Taka 1,34,82,410/- per acre for 0.2950 acre of chala land, Taka 35,59,142/70 @ Taka 1,07,85.381/- per acre for 0.3300 acre

of nal land, Taka 2,70,000/- @ Taka 27,00,000/- per acre for 0.10 acre ditch land and Taka 23,18,649/91 as 25% compensation on the above land totaling Taka 1,15,93,249.85 from which deducted Taka 6,91,699/41 which has been already paid and directed the opposite parties to Pay Taka 1,09,01,550/43 with 10% additional compensation within 60 days from 30.6.1991.

Against the aforesaid judgment and order dated 30.06.1990 the opposite parties preferred Arbitration Appeal No. 179 of 1991 before the Court of the Arbitration Appellate Tribunal and District Judge, Dhaka. This Appeal along with appeal No. 178 of 1991 was disposed of by the single judgment and order dated 09.11.1992 allowing both the appeals in part amending the award given by the learned Sub-ordinate Judge, Arbitrator awarding Taka 5,55,942/- for 0.38575 acre Bhati land and chala land together at the rate of Taka 14,49,200/- per acre, Taka 1,95,591/- for 0.3300 acre of nal land at the rate of Taka 5,92,700/- per acre, Taka 2,963/00 for 0.10 acre of ditch land at the rate of Take 29,635/- per acre and Taka 1,88,624/35 as 25% additional compensation totaling Taka 9,43,121/75 less the paid amount of Taka 6,91,699/41 and directed the opposite parties to pay Taka 2,51,452/34 to the petitioner within 60 days from date.

No one appears to press the Rule.

No one appears for the Dhaka City Corporation.

However, we have heard Ms. Nahid Hossain, the learned Deputy Attorney General who supported the judgment passed by the Arbitration Appellate Tribunal.

The petitioner took as many as XVIII grounds in this revision including formal grounds contending *inter alia*

that the Appellate Tribunal has illegally applied one and the same rate for both Chala and Bhiti class of Land while assessing the compensation for admittedly four separate classes of land which law does not permit. According to the Government's own Circular No. AL-7/75/26/Reqn dated 10.3.1975 (Exhibit-6), the compensation of nal land is to be assessed first; the rate of Bhiti land is to be 50% above the nal land and the rate of chala land is to be 25% higher than the nal land. This circular clearly ascertains that Bhiti and chala lands are two separate classes of lands with separate prices. By mixing 0.09075 acre Bhiti land with 0.2950 acre of chala land the appellate tribunal has violated government instruction in the present case whereas the Deputy Commissioner has admitted Bhiti and Chala as two separate class of land during his assessment of compensation. The compensation as assessed by the Deputy Commissioner was insufficient and the Arbitrator in Arbitration Revision Case rightly assessed the same considering the market price of the relevant time and the rate allowed in respect of adjacent plots of land but the learned Appellate Tribunal reversed the same which is highly insufficient, below the market price of the relevant time and much below the rate allowed in respect of adjacent plots of land. Moreover 10% additional compensation over the enhanced amount allowed by the arbitrator was not allowed by the Appellate Tribunal.

The further grounds of the petitioner are that admittedly the rate allowed in respect of the case land of Arbitration Revision Case No. 140 of 1990 (exhibit-1) is the land right adjacent to the present case land and hence the same rate is applicable to present case land inasmuch

as the category of the aforesaid case land and the present case land is the same in commercial as well as residential view points. That the Arbitration Appellate Tribunal arrived at a wrong finding that the price of the lands of a separate Mouza i.e. Barabo Mouza cannot be made available or be considered to the lands of Katasur Mouza, the lands in question, though adjacent and contiguous. The Arbitration Appellate Tribunal has failed to consider that the class and importance of land of CS Plot No. 772, 822, 823, 888 and 895 of Mouza- Katasur are same to the lands of CS Plot Nos. 720, 716 of Barabo Mouza, the lands of Arbitration case No. 140 of 1990 (Exhibit-1), both from the Commercial and residential view points and the advantage/facilities of lands is the same as is evident from exhibit 4 and admitted by DW-1. Moreover, the price of the lands of Barabo Mouza (exhibit-1) has been arrived on the basis of sale figures from kabala and contract for sale while in the present case different assessment policy has been adopted by the Appellate Tribunal. That the Appellate Tribunal erred in law in not considering the statements of PW-1 and DW-1 in their proper meaning and context. That the Appellate Tribunal has erred in law in giving much emphasis on sale figures from sale deeds and arriving at a wrong finding that the compensation given in the Judgment in respect of lands of Arbitration Revision Case No. 140 of 1990 which has not been opposed by the Government by filing Appeal, cannot be considered although there is no such law that the rate available from Arbitration Revision case or judgment of the Court cannot be taken into consideration. According to law, rates are to be considered that may be on any basis.

Some more grounds are taken contending further that the Appellate Tribunal has erred in not considering .10 acre of land of Plot No.895 as Nal land instead of ditch land and thus arrived in a wrong decision and failed to consider the Judgment of the Arbitrator as well as evidences on record and the impugned judgment and order is otherwise bad in law as well as facts and circumstances and evidence on record of the present case.

We have heard the learned Deputy Attorney General, perused the revision application along with the annexure. We have perused both the judgments, considered the materials on record including depositions and exhibits along with other documents available before us.

It appears from record that the learned Arbitrator in Arbitration Revision Case enhanced the compensation on the finding, inter-alia, that the case Lands are important in commercial as well as residential view points as the same are adjacent to BRTC Bus depot and Satmasjid Road. The case Plots are though situated in Katasur Mouza but right adjacent to the plot Nos. 720 and 716 of Barabo Mouza, the lands for which compensation paid in Arbitration Revision Case No. 140 of 1990 (Exhibit-1) and as such the rate allowed in the said Arbitration Revision Case No. 140 of 1990 was accepted.

On the other hand the Arbitration Appellate Tribunal by the impugned judgment refused to accept the same rate awarded in Arbitration Revision Case No. 140 of 1990 (Exhibit-1) in the present case and gave elaborate reasons for not accepting the same rate. The appellate tribunal further observed that the petitioner did not submit any documents/deeds in support of his enhance claim having no

basis. The learned judge found that the award/compensation was given in Arbitration Revision Case No.140 of 1990 on the basis of documentary evidence but in the present case the petitioner has failed to submit any such documentary evidence and as such the rate of the Arbitration Revision Case No.140 of 1990 cannot be applicable in the present case rather it should be on the basis of average valuation of sale deeds of last 12 months. It further appears from impugned judgment that the compensation is decided on the basis of some deeds amalgamating the lands of Bhiti and Chala as same rate. We do not find any reason for deciding same rate for two different classes of lands. Other than this we do not find any wrong in the assessment of the appellate tribunal which is based on evidence on record of the instant case.

From the Government's Circular No. AL-7/75/26/Reqn dated 10.3.1975 (Exhibit-6), when the average valuation of land is not available the compensation of nal land is to be assessed; the rate of Bhiti/homestead land is to be 50% above the nal land and the rate of chala land is to be 25% higher than the nal land. This circular clearly ascertains that Bhiti and Homestead land as same class but chala lands as separate class of land with separate price, that is valuation of Bhiti land is 25% higher than the Chala land. By amalgamating 0.09075 acre Bhiti land with 0.2950 acre of chala land, the appellate tribunal has violated government instruction in the present case whereas the Deputy Commissioner has admitted Bhiti and Chala as two separate class of land during his assessment of compensation. The appellate tribunal assessed taka 14,41,200/ per acre of Bhiti/chala land on the basis of average valuation of sale

deeds submitted by government. Since Bhati land is different class and valuation is 25% higher than the Chala land, the valuation of Bhati land should be taka 18,01,600/ per acre. Hence, valuation of 0.09075 acre Bhati land stands as taka 1,63,495/20 and 0.2950 acre of chala land as taka 4,25,154/. In that view the total valuation of Bhati land are taka 1,63,495/20, chala land taka 4,25,154/, nal land taka 1,95,591/ and ditch land taka 2,963/50 in total valuation of the acquired land stand as taka 7,87,203/70. Now, as per the Act 25% of the valuation is to be added as compensation which would be taka 196800/93. In that view, the government is supposed to pay taka $7,87,203/70 + 1,96,800/93 = 9,84,004/63$ to the petitioner in which the petitioner already accepted taka 6,91,669/49 and rest amounting to taka 2,92,335/14 is to be paid by the government.

The learned Judge of the arbitration revision case asked the government to pay 10% additional compensation upon the unpaid amount from the date of award i.e 23.03.1991 but the learned Judge of the appellate tribunal did not say anything about that which, in our view, is wrong. In our opinion, it should not be additional compensation rather the petitioner is entitled to interest upon unpaid amount. Hence, we hold that the petitioner is entitled to get the 10% interest from 23.03.1991 on the amount of taka 2,92,335/14 till the payment.

In the facts and circumstances of the case and the evidence on record as discussed above we are constrained to interfere with the impugned judgment and order in part.

In the result therefore, the rule is made **absolute-in-part**.

The respondents are directed to pay taka 2,92,335/14 to the petitioner along with 10% interest of the said amount from date of award dated 23.03.1991 till the date of payment immediately preferably within 45 days from receipt of this judgment. However, there will be no order as to cost.

Send down the Lower Court Records at once along with a copy of this judgment to communicate the parties concerned.

Md. Iqbal Kabir, J:

I agree.