IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)

Present
Mr. Justice Sikder Mahmudur Razi
And
Ms. Justice Fatema Anwar

Writ Petition No. 13521 of 2026

B.M. Omar Ali and others
.....Petitioners.
-Versus-
The Judge, Arpita Sampatti Protyarpan Appellate Tribunal, Khulna and others.
.....Respondents.

Mr. Tapan Kumar Bepary, Advocate
For the petitioners.
Mr. Nur Mohammad Azami, DAG
Mr. Zasidul Islam Jony, DAG
Mr. Md. Asif Imran, AAG
Mr. Md. Mostofa Kamal Bachchu, AAG
Mr. Minhazur Rahman, AAG
Mr. Md. Mosaddek Billah, AAG
Mr. S.M. Emamul Musfiqur, AAG
For the respondents.

The 1st November, 2026

Sikder Mahmudur Razi, J

In an application under Article 102 of the Constitution of the People's Republic of Bangladesh the petitioner has challenged the judgment and decree dated 27.11.2024 passed by the respondent No. 1, the Judge of the Arpita Sampatti Protyarpan Appellate Tribunal, Khulna in V.P. Appeal No. 28 of 2023 dismissing the appeal and thereby affirming the judgment and decree dated 12.01.2023 passed by the respondent No. 2, the Judge of the Arpita Sampatti Protyarpan Additional Tribunal No. 2, Khulna in Arpita Sampatti Protyarpan Case/Suit No. 5565 of 2012 decreeing the suit, concerning the return of the scheduled property under the Arpita Sampatti Prottarpon Ain, 2001.

The petitioner's claim rests solely upon an allotment or lease granted by the Government. No claim has been advanced as the original owner, an heir or successor-in-interest of such owner, or an inherited co-sharer falling within the definition of "owner" under section 2(ঙ) of the Ain. Mere possession under a Government lease does not bring the petitioner within that statutory definition or confer an independent right to resist the return of the property to a person adjudged entitled thereto.

Moreover, on close examination of Section 4 and 10(6)(kha) of the Act, 2001 it appears that the Government is the only necessary party in such a matter. Lessee or lessee in possession is not necessary party at all 20 BLC (HCD)- 547

It appears that the present challenge is directed against the adjudication of entitlement to return of the property, rather than any separate unlawful act concerning the administration of the petitioner's lease. The petitioner's interest in continuing possession under that lease does not, by itself, confer standing to reopen such adjudication.

The issue has already been decided in a large number of cases and no more a res intergra.

In *Aroti Rani Paul v. Sudarshan Kumar Paul and others*, 56 DLR (AD) 73**,** the Appellate Division held that year-to-year lessees of vested property had no locus standi to challenge the decree or prefer an appeal against it; any challenge on behalf of the vested property authority was for that authority to pursue. The same principle was applied in *Fahmida Begum and others v. Government of Bangladesh and others*, 25 BLT (HCD) 292.

In Nehar Begum vs. Arpito Sampotti Appellate Tribunal (LEX/BDHC/0524/2023) it was held that a year-to-year lessee paying rent via DCR lacks locus standi under Article 102 to challenge an Appellate Tribunal decree; the right to challenge rests exclusively with the Vested Property Authority.

In Lutfur Rahman vs. Judge, Arpita Sampatti Protyarpon Additional Appeal Tribunal (LEX/BDHC/0423/2018) it was held that section 2(Da) bars a 'simple lessee' from challenging vested property judgments under Article 102, particularly where title is settled.

In Fahmida Begum vs. Government of Bangladesh (LEX/BDHC/0105/2017) it was held that year-to-year lessees are not 'aggrieved persons' under Article 102.

In Md. Afazuddin Haider vs. Abu Mohammad Siddique (LEX/BDAD/0260/1997) it was held that a temporary lessee has no standing to challenge an order releasing vested property when the government lessor concedes the release.

In Mohammad Riaz Hossain Khan vs. Government of Bangladesh (LEX/BDHC/1169/2025) it was held that third parties cannot invoke Article 102 against concurrent tribunal decrees.

Consequently, the petitioner has failed to establish the requisite locus standi as a person aggrieved for the relief sought under Article 102 of the Constitution.

However, it further appears that, insofar as the Government claims an interest in the property, the Deputy Commissioner, Khulna, ought to have

pursued the matter through the prescribed official channels and in accordance with the applicable procedure for representing the Government. Instead, the Deputy Commissioner engaged an Advocate in her private capacity and executed a letter of authority in favour of a private individual for the discharge of her official responsibilities. Such a course is inconsistent with the requirements of lawful and accountable exercise of public power. The mere inclusion of the Deputy Commissioner as a co-petitioner neither establishes that the Government has duly invoked this Court's jurisdiction nor cures the private petitioner's lack of locus standi. Accordingly, such inclusion cannot, by itself, render the writ petition maintainable. We deprecate this departure from the proper procedure for conducting litigation on behalf of the Government.

Accordingly, the writ petition is **rejected summarily as being not maintainable**. However, Government is at liberty to challenge the judgment and decree passed by the Tribunal and Appellate Tribunal, if so advised.

The petitioners are permitted to take back the certified copy upon furnishing photocopies thereof.

(Sikder Mahmudur Razi, J:)

I agree.

(Fatema Anwar, J:)