

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

WRIT PETITION NO. 8582 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:

Suniti Ghosh

... Petitioner

-Versus-

The government of Bangladesh, represented by
the Secretary, Ministry of land, Bangladesh
Secretariat, Shahbag, Dhaka and another

... Respondents

Mr. Bivash Chandra Biswas, Advocate

..For the petitioner

Mr. Syed Ejaz Kabir, DAG

with

Mr. Mohammad Imam Hossain, DAG

with

Ms.Mahbuba Tasnim Akhi, AAG and

Mr. Mustafizur Rahman Mukul, AAG

...For the government

Heard on 26.10.2025, 09.11.2025
and Judgment on 09.11.2025

Present:

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Rezaul Karim

Md. Mozibur Rahman Miah, 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 enlistment of the suit land measuring an area of 13 decimals of land in the 'Ka' list under *Aripita Sampatty Pratarpan* Ain, 2001 (as Amended up to 2011) vide gazette notification dated 29.03.2012 relating to V.P. Case No. 12 of 1984 and 37 of 1986, so far it relates to the land of S.A. Plot No. 136,181,182 corresponding R.S Plot No. 190 and 189 appeared in serial No. 909 and 910 under mouja, Sorulia, Police Station, Tala at present Patkelghata, District, Satkhira vide Annexure-'F' 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, the parties were directed to maintain status quo in respect of possession and position of the schedule property for a period of 06 (six) months. Record shows that after obtaining that interim order, no further extension was taken by the petitioner.

The salient facts leading to issuance of the instant rule are:

That 8 decimals of land of S.A plot no. 136 under SA khatian No. 131 of Mouja Sorulia of Police Station, Tala at present Patkelghata and District, Satkhira originally belonged to and possessed by one, Lalit Mohan Ghose in eight annas share, Debendra Nath Ghosh and Nomita Bala Ghosh each in one anna share, Norendra Nath Ghosh in four ana share and Taramoni Ghosh in two ana share and accordingly SA record

was published in their name. It has further been stated that two decimals of land of SA plot No. 181 and three decimals of land SA plot No. 182 under SA khatian No. 139 of Mouja, Sorulia police Station, Tala at present Patkelghata and District, Satkhira originally belonged to and possessed by Laddyh Mohan Ghosh in eight anas share, Narendara Nath Ghosh in four ana share, Khuki Bala Ghosh and Dhirendra Nath Ghosh each in two ana shares and accordingly SA record was published. Afterwards, Lalit Mohan Ghosh being owner of $10\frac{1}{2}$ decimals of land in SA khatian No. 131 and 239 transferred the same to Madar Chandra Ghose who sold the same vide sale deed No. 659 dated 17.06.1972 to one, Kiron Bala Ghosh who then mutated her name through Mutation Case No. 3155/1984-85. It has also been stated that in the schedule of said sale deed no. 659, 2 decimals of land under plot no. 181 and 3 decimals of land of plot no. 182 totaling 5 decimals of land in which $2\frac{1}{2}$ decimals of land and 8 decimals of land of SA plot No. 135 totaling $10\frac{1}{2}$ decimals of land is the scheduled property. In the aforesaid way, Kiron Bala Ghosh became the owner of 5 decimals of land of SA plot Nos. 181 and 182 corresponding to RS plot No. 189 under RS khatian No. 51 and 8 decimals of land SA plot No. 135 corresponding to RS plot No. 191 under RS khatian No. 52 and accordingly the name of Kiron Bala Ghose was rightly prepared in RS khatian No. 52. That Kiron Bala Ghosh sold 13 decimals of land vide registered sale deed no. 2715 dated 12.05.1999 to Shreemoti Srimiti Ghosh that is, the petitioner. It has also been that stated that, 8 decimals of land of SA plot No. 136 under khatian No. 131 belonged to one, Asit Ghosh but he used to possess the land of SA plot No. 135 and Kiron Bala

Ghosh, the land of SA plot No. 135 by amicable settlement and this petitioner has been possessing the land from SA plot No. 136. It has also been stated that SA plot No. 136, 181 and 182 under SA khatian No. 131 and 239 and the land of SA plot No. 135, 181, 182 and 183 under SA khatian No. 131, 239 and 236 of Mouja Sarulia of Police Station, Tala presently, Partalghata were enlisted in 'ka' list under *Arpita Sampatty Pratarpan* Ain, 2001 in serial Nos. 909 and 910 which was published in the gazette notification dated 29.03.2012 vide V.P case No. 12 of 1984 and 37 of 1986. By filing a supplementary-affidavit, it has also been stated in paragraph no. 3 thereof that, after purchasing the said property by the petitioner she has been paying rent up to the year 1422 BS and since then she and her husband have been in possession over the case land but it was wrongly prepared in 'Ka' list. However, in the early part of the year, 2017 when the petitioner's husband went to the local *Tahsil* Office to pay the land development tax (*Khazna*), the land official informed him that no further rent would be taken as the property has been enlisted in 'Ka' list under *Arpita Sampatty Prattarpan* Ain and for the first time the petitioner came to know about the wrong enlistment and in the meantime, limitation in filing case before *Arpita Sampatty Prattarpan* Tribunal has been expired and hence the petitioner was compelled to file the instant writ petition and obtained rule and order of stay.

Mr. Bivash Chandra Biswas, the learned counsel appearing for the petitioner upon taking us to the writ petition at the very outset submits that, from the gazette notification it transpired that vested property case no. 12 of 1984 and 36 of 1986 were started in the year of 1984 and 1986

respectively which is not permissible in law and as such, the gazette notification in respect of the case land is without any lawful authority and is of no legal effect.

The learned counsel goes on to submit that, the gazette notification dated 29.03.2012 publishing the suit land in 'Ka' schedule as per *Arpita Shampatti Protarpan Ain* relating to the SA plot No. 135, 136, 181 and 182 corresponding to RS plot No. 191, 190 under Mouja Sarulia of Police Station, Tala is illegal and as such the impugned enlistment is thus illegal and without lawful authority and is of no legal effect.

The learned counsel further contends that, the government has utterly failed to prove that the predecessor of the petitioner left this country on or before 1965 but on the contrary, the original owner transferred the case land to the predecessor of the petitioner in the year 1972 and 1999 vide annexure-'C' and annexure-'E' respectively which clearly proves that the petitioner and her predecessor had been in this country at the time of execution and registration of those two sale deeds and therefore there has been no scope to publish the suit land in 'Ka' list under section 9 of the *Arpita Shampatti Protarpan Ain*, 2001.

The learned counsel lastly contends that, since RS record was prepared in the name of the predecessor of the petitioner, Kiron Bala Ghose and the said land survey (ভূমি জরিপ) in Satkhira District was started in the year 1987 and completed in the year 1992 and as such the impugned enlistment of the schedule property in 'Ka' list vide gazette notification on 29.03.2012 is totally illegal and finally prays for making the rule absolute.

On the contrary, Mr. Syed Ejaz Kabir, the learned Deputy Attorney General by filing an affidavit-in-opposition mainly contends that, the sub-registry office in Tala was burned down during the liberation war in 1971 resulting in, all the record and important documents were not available from the year 1954 till 1971 in that office and taking advantage of that situation, the land grabber, manufactured forged deeds and Madar Chandra Ghosh by taking advantage of that situation registered the alleged deed on 17.06.1972 in favour of the predecessor of the petitioner, Kiron Bala Ghosh.

The learned counsel further contends that, Kiron Bala Ghosh had earlier taken lease of the disputed land vide lease deed from the government which alternatively proves, that Kiron Bala Ghosh acquired no title, interest over the suit property by virtue of the alleged sale deed from Madar Chandra Ghosh because had she purchased the land, he would not have taken lease from the government treating the said property as vested property. The learned counsel by taking us to three renewal applications of lease so made by the predecessor of the petitioner, Kiron Bala Ghosh also contends that, the suit property had never been purchased by her let alone she got the property from her seller, Madar Chandra Ghosh in the year 1972.

The learned Deputy Attorney General further contends that, the predecessor of the present petitioner left the country during the India-Pak war in 1965 and they did never return to this country for which the schedule property has rightly been enlisted in 'Ka' list having no scope to challenge the propriety of the same by the petitioner. With those

submission the learned Deputy Attorney General finally prays for discharging the rule.

We have considered the submission so advanced by the learned counsel for the petitioner and that of the learned Deputy Attorney General. Together, we have also gone through the documents so have been appended with the writ petition as well as the affidavit-in-opposition vis-à-vis in the supplementary affidavit. There have been no gainsaying the fact that the petitioner purchased the property in the year 1999 from Kiron Banal Ghosh which has been annexed as of annexure-‘E’ to the writ petition who also purchased the same from the original owner that is Madar Chandra Ghose and RS record was prepared in the name of Kiran Bala Ghosh which has also been annexed as of annexure-‘C’ to the writ petition. So, all those vital documents that is annexure-‘C’ and annexure-‘E’ through which the petitioner acquired title over the suit property remained unchallenged by the government. It is the contention of the learned Deputy Attorney General for the government that since Kiron Bala Ghosh had been a lessee of the government who once took lease admitting the property as vested property, so there has been no scope to prepare RS record in her name. But we don’t find any substance to the said submission because had Kiron Bala Ghosh taken lease from the government claiming it to be vested property, there would have no legal bar for the government to challenge the preparation of RS record. So until and unless that RS record is declared illegal, there has been no scope to say that Kiron Bala Ghosh was not the original owner of the suit property through which the petitioner subsequently purchased the same in

the year 1999. Furthermore, it has clearly been asserted that in the area of Satkhira RS record was started preparing in the year 1987, and it was completed in the year 1991. Had it been so, there has been no scope to enlist the schedule property in 'Ka' list even in the year 2012. On top of that, from Annexure-'G' to the supplementary-affidavit so submitted by the learned counsel for the petitioner, we also find the petitioner paid rent up to the year of 1422 BS and since the government received the rent so there remains no scope for it to claim the suit property as vested property let alone to enlist the same in 'Ka' list. Overall, We find ample substance to the submission so placed by the learned counsel for the petitioner which is based on material on record and accordingly we are inclined to make the rule absolute.

In the result, the rule is made absolute however without any order as to costs.

The enlistment of the suit land of 13 decimals of land in the 'Ka' list under *Aripita Sampatty Pratarpan Ain*, 2001 (Amended as 2011) vide gazette notification dated 29.03.2012 relating to V.P. Case No. 12 of 1984 and 37 of 1986, so far it relates to the land of S.A. Plot No. 136,181,182 corresponding R.S Plot No. 190 and 189 appeared in serial No. 909 and 910 under mouja Sorulia Police Station, Tala at present Patkelghata District, Satkhira vide Annexure-'F' to the writ petition is thus declared to have been issued without lawful authority and is of no legal effect.

The respondent no. 4 is hereby directed to release 5 decimals of land of RS plot no. 189 and 8 decimals of land of RS plot no. 191 totaling 13 decimals of land from 'Ka' list enlisted in the notification published in

Bangladesh gazette dated 29.03.2012 within a period of 01(one) month from the date of receipt of the copy of this judgment and order.

In any case, the order of status quo granted at the time of issuance of the rule stands recalled and vacated.

Let a copy of this judgment and order be communicated to the respondent nos. 1-6 forthwith.

Rezaul Karim, J.

I agree.

Kawsar/A.B.O.