

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

Writ Petition No. 190 of 2022.

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Muhammad Miah @ Muhammad Mahmud Mia.

...Petitioner

-V E R S U S-

Government of the People's Republic of Bangladesh, represented by the Deputy Commissioner, Habiganj, Police Station and District-Habiganj and others.

.....Respondents

Mr. M.A. Jabbar, Advocate

.....For the petitioner

Mr. Sk. Shaifuzzaman, DAG with

Ms. Rehana Sultana, AAG and

Mr. Md. Samiul Alam Sarkar, AAG and

Mr. Ashique Rubaiat, AAG and

Ms. Zulfia Akhter, AAGs

.... For the respondents

Present:

Mr. Justice K.M. Kamrul Kader

And

Mr. Justice Khizir Hayat

Heard and Judgment On: 17.01.2024.

K. M. Kamrul Kader, J :

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh this Rule Nisi was issued on 24.01.2022, in the following terms:

“Let a Rule Nisi be issued calling upon the respondents No.1-5 to show cause as to why the Judgment and decree dated 05.12.2021 (decree signed on 12.12.2021) (Annexure-F) passed by the respondent No.3, learned Judge of the Land Survey Tribunal, Habiganj in Land Survey Tribunal Case No.713 of 2017 decreed the suit and ordered the Deputy Commissioner, Habiganj to correct the record in respect of .01 acre of land in R.S. Khatian No.246,

R.S. Plot No.189, in the name of the plaintiffs which is originated from S.A. Khatian 298, S.A. Plot No.159 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 pass as to this Court may seem fit and proper.”

This Rule Nisi was issued on the ground that the Government has not yet been established any Land Survey Appellate Tribunal under Section 145B of the SAT Act. Due to this reason, the petitioner has failed to redress his grievance by filing appeal against the order, judgment and decree passed by the concerned Tribunal.

Mr. Sk. Shaifuzzaman, learned Deputy Attorney General submits that the government has already been published Gazette for establishing Land Survey Appellate Tribunal in different districts and the petitioner of the writ petition may redress his grievance by filing appeal, before the respective Land Survey Appellate Tribunal of the respective district and as such, he prays for discharging the Rule.

It appears that in the meantime the Government has already established the Land Survey Appellate Tribunal in the respective districts vide Gazette notification dated 11.07.2023 to hear the appeal arising out of judgment and decree and/or order of the Land Survey Tribunal in different districts. Considering the facts and circumstances of the matter, we are of the view that the petitioner may redress his grievance by filing appeal, before the Land Survey Appellate Tribunal, Habiganj and as such, the Rule issued by this Court has become infructuous.

In the result, the Rule is disposed of. The petitioner is at liberty to prefer appeal within 03(three) months from date, if any, before the Land

Survey Appellate Tribunal, Habiganj and in preferring such appeal delay occurred, if any, shall be condoned.

In the meantime, the order of *stay* granted at the time of issuance of the Rule shall continue till filling of the appeal before the Land Survey Appellate Tribunal or 03(three) months from the date of receipt of this order, whichever is earlier.

The learned Advocate for the petitioner is permitted to take back the certified copies of the annexures by substituting the Photostat copy of the same.

There will be no order as to costs.

Communicate the judgment and order to the petitioner and the respondents at once.

Khizir Hayat, J:

I agree.