

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

WRIT PETITION NO. 7468 of 2022

Present

Mr. Justice K.M. Hafizul Alam

-And-

Mr. Justice Abdur Rahman

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Imam Hossen and others

.... Petitioners

-versus-

The Government of Bangladesh and others

.... Respondents

None appears

... For the petitioners.

Mr. M. Atikur Rahman, Advocate

... For the added respondent Nos. 5-15.

.... For the respondents.

Date of Hearing: 26.02.2026 and 05.03.2026

Date of Judgment: 12.03.2026 A.D Thursday
27 Falgun 1432 B.S.

Abdur Rahman, J:

This *Rule Nisi*, at the instance of the petitioners, was issued on an application under Article 102 of the Constitution of the People's Republic of Bangladesh in the following terms:

"Let a Rule Nisi be issued calling upon the respondents to show cause as to why the judgment and decree dated 18.10.2021 (decree signed on 24.10.2021) passed by the learned Judge, Arpita Sampatti Prottyarpan Atirikta Appeal Tribunal and Additional District Judge, 1st Court, Kishoreganj in Arpita Appeal No.27 of 2016 allowing the appeal by reversing the judgment and decree dated 07.11.2016(decree signed on 13.11.2016) passed by the learned Arpita Sompotti Protttarpon Tribunal & Senior Assistant Judge, Kishoreganj in V.P. Suit No. 924 of 2013 decreeing the suit (Annexure- C & C1) should not be declared to have been passed without lawful authority and are of no legal effect

and/or such other or further order or orders passed as to this court may seem fit and proper.

Eodem tempore, this Division was pleased to pass an order directing the parties to maintain the *status quo* in respect of possession and position of the suit land for a period of 3 (three) months, which was subsequently extended till disposal of the Rule.

The embodied facts leading to issuance of this Rule Nisi in brief are that: the petitioners being applicants/plaintiffs filed the Arpita Case No. 924 of 2013 before the learned Arpita Sompotti Protyarpan Tribunal for releasing the case land from the 'Ka' Schedule of the list of vested property of the disputed mouza published in the official gazette on 06.05.2012 in the serial no. 128 thereof, stating *inter alia* that the suit land belonged to CS tenants Ali Newaz, Samir Sheikh, and Momin Sheikh in equal shares, and that Samir Sheikh got the measuring of 14 decimals appertaining to plot No. 60, including other land as per amicable partition among Ali Newaz and three brothers. Samir Sheikh, while

possessing and enjoying, died, leaving behind 03 sons, including Abdul Wahed, who was the predecessor of the petitioners. He got 14 decimals, including undisputed land, and accordingly, SA Khatian No. 314 was correctly prepared in the name of Abdul Wahed, who died leaving behind 2 sons, Imam Hossain and Alimuddin. The petitioners, being the successor-in-interests of C.S. and S.A. tenants, possessed the suit land for more than 60 years. Accordingly, the suit property was never vested in favor of the Government, and the suit land was listed wrongly in the Vested Property List, which is liable to be delisted as per law.

On the other hand, the respondent No. 2, Deputy Commissioner, Kishoreganj, contested the suit by filling written statement denying all the material allegations averred in the application, contending *inter alia* that there was no cause of action for the suit, and the same was barred by the provisions of Section 8 and 16 of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১. S.A. recorded tenant Debendra Kishore left this country during the India-Pakistan war of 1965. In

consequence thereof, the suit land stood vested in favor of the Government, and possession was duly assumed by the competent authority as vested property; subsequently, in terms of the rules relating to its maintenance and management, the Government granted lease of the said land through V.P. Lease Case No. 153/1972–73 in favor of Rabiya Khatun and others, who were in possession. The suit land was rightly listed in the Arpita Sampatti Pratyarpan List. Hence, the suit is liable to be dismissed with costs.

Thereafter, the learned Arpito Sompotti Protayarpan Tribunal, Kishoreganj, duly concluding the trial, was pleased to allow the case by its judgment and decree dated 07.11.2016 (decree signed on 13.11.2016). The respondent No. 2, being aggrieved by and dissatisfied with the said judgment and decree, preferred Arpita Appeal No. 27 of 2016 before the learned Arpito Sompotti Protayarpan Appeal Tribunal, Kishoreganj, and after hearing the same, the learned Appellate Tribunal was pleased to allow the appeal by its judgment and decree dated 18.10.2021 (decree drawn

up and signed on 24.10.2021), reversing the judgment and decree of the learned Arpito Sompotti Prottyarpan Tribunal, Kishoreganj. Hence, finding no other alternative, the petitioners invoked this writ jurisdiction.

Apart from those, a converse version revealed before us, while the added respondent Nos. 5-15 filed an affidavit-in-opposition contending *inter alia* that these Respondents, as plaintiffs, instituted Vested Property (V.P.) Case No. 206 of 2012 before the learned Arpita Sampatti Prottyarpan Tribunal, Kishoreganj Sadar, Kishoreganj, against the Government of Bangladesh, seeking release of land appertaining to CS/SA Plot No. 60 from the list of Arpita Sampatti under the "Ka" Schedule published in the Gazette dated 06.05.2012 at Serial No. 128. Their specific case was that the scheduled land, including other land, belonged to Jitendra, Direndra, Shatish, Jatish, and Horendra Chandra Dey. Jitendra and the others, while in possession of the scheduled land, the land appertaining to SA plot No.93 stands recorded in SA Khatian No.88 in their name, the land

appertaining to SA plot No. 69 & 60 stands recorded in the name of Jitendra Kishore Dey and others along with the name of the other co-sharers in SA Khatian No.314. Afterward, Jitendra Kishore Dey and the others used the title as 'Sarkar. It is notable that Jitendra Chandra Sarkar, Jatindra, and Hirendra Chandra Sarkar, taking their shares in other ways, relinquished their shares to the suit land in favour of Direndra, Satish Chandra Sarkar. Thus, Direndra and Satish had been in exclusive possession and enjoyment of the scheduled land, which had been in exclusive possession and enjoyment thereof upon living in some parts, keeping a pond in other parts, and paying rent. Shatish and Direndra Chandra Sarkar, while in possession including five houses therein, transferred the same by saf-kabalas Nos. 8804, 8805, 9003, and 9004 dated 07.09.72, kabalas Nos. 9148, 9149, 9057, and 9064 dated 11.09.72 and kabala dated 30.07.73 to the petitioners, and delivered possession thereof to them. Thus, the petitioners, while in possession and enjoyment of the suit land measuring 73 decimals,

including the houses situated therein, by dwelling and using the water of the pond and mutating in their name and paying rent, CS plots transform into RS plots Nos. 130, 131, 146, 147, 129, and 132. The land measuring 15 decimals stands recorded in the name of plaintiff No.3 in RS Khatian No.5417, 18 decimals in the name of plaintiffs No.2, 5, 6 in RS Khatian No.499, 17 decimals in the name of the plaintiff No.1 in RS Khatian No. 517, 16 decimals in the name of plaintiff No.2 in RS Khatian No.45, and 14 decimals in the name of plaintiff No.1 in RS Khatian No. 530, and Khatian No.417 stands wrongly recorded in the name of Md. Momtaz, father of Matab Uddin, was not recorded in the name of the plaintiff No.4. Jhitendra Direndra and Jatindra never went away to India, and they, being permanent residents of this country, died here. There is no census list of the scheduled land. Therefore, the suit land cannot be an enemy property. The suit land stands wrongly published in serial No. 128 of the 'Ka' schedule of the Gazette under the Arpita Sampatti Pratyarpan Ain. Hence, the suit.

On the contrary, the Government contested the aforementioned suit by filing a stereotyped written statement as stated in the earlier case.

Thereafter, the learned Arpita Sampatti Protayarpan Tribunal, Kishoreganj, hearing the parties and upon consideration of the materials on record, was pleased to decree the said suit in favour of the plaintiffs (respondent Nos. 5-15) by Judgments and Decrees dated 16.08.2016 and 22.08.2016 respectively, and thereby directing release of the suit land from the "Ka" Schedule. Therefore, being aggrieved by and dissatisfied with the said judgment and decree, the Government preferred Arpita Appeal No. 12 of 2016 before the learned Additional District Judge and Arpita Sampatti Otirikta Appeal Tribunal, Kishoreganj, challenging the propriety of the aforesaid Judgment and Decree.

Surprisingly, it appears that the present petitioners, as plaintiffs, instituted V.P. Case No. 924 of 2013 before the same Tribunal seeking release of the land appertaining to CS/SA Plot No. 60 from the same "Ka" Schedule of the

Gazette dated 06.05.2012. On the other hand, added respondents Nos. 5-15 as plaintiffs filed vested property (V.P.) Case No. 206 of 2012 for releasing the same properties from the 'Ka' scheduled land. Learned Tribunal without following the provisions of Section 17 (Gha) of the অর্পিত সম্পত্তি প্রত্যারণ আইন, ২০০১, completed two separate trials, and as a result, both the suits were decreed upon the very same land. Therefore, the Government was bound to file two (2) separate appeals. Likely, the Government preferred Arpita Appeal No. 27 of 2016 before the learned Additional District Judge and Arpita Sampatti Otirikta Appeal Tribunal, Kishoreganj, against the Judgment and Decree dated 07.11.2016 and 13.11.2016, respectively, passed in V.P. Case No. 924 of 2013, and another Arpita Appeal No. 12 of 2016 against the judgment and decree dated 16.08.2016 (decree signed on 22.08.2016) passed in Arpita Sampatti Pratyarpan Tribunal Case No. 206 of 2012.

Since the Arpita Appeal No. 12 of 2016 and Arpita Appeal No. 27 of 2016 arose out of and concerned the

selfsame scheduled land, in particular CS/SA Plot No. 60, the learned Arpita Sampatti Pratyarpan Appellate Tribunal, for the sake of convenience and to avoid conflicting decisions, was pleased to hear both the appeals analogously. Upon due consideration of the submissions advanced by the respective parties and after a comprehensive appraisal of the materials on record, the learned Appellate Tribunal disposed of the said appeals on the same date, through separate judgments and decrees dated 18.10.2021 (the decrees pursuant thereto having been drawn up and signed on 24.10.2021), whereby Arpita Appeal No. 12 of 2016 was dismissed, and Arpita Appeal No. 27 of 2016 was allowed.

Subsequently, the Government, despite being duly aware of the concomitant outcome of the said appeals, did not take any effective steps or further legal recourse in respect of the decision rendered in Arpita Appeal No. 12 of 2016. In such circumstances, the respondents in Arpita Appeal No. 27 of 2016, having been left with no equally

efficacious or alternative forum, were constrained to invoke the writ jurisdiction of this Court seeking appropriate relief.

At the time of hearing, no one appeared for the petitioners, but the petitioners took several grounds in this writ petition, mainly (i) the suit land belonged to CS tenants Ali Newaz, Samir Sheikh, and Momin Sheikh in equal share, and Samir Sheikh got the measuring 14 decimals about plot No. 60, including other land as per amicable partition among Ali Newaz and three brothers, that Samir Sheikh, while possessing and enjoying, died leaving behind 03 sons, including Abdul Wahed, who was the predecessor of the petitioners. He got 14 decimals, including undisputed land, and accordingly, SA Khatian No. 314 was correctly prepared in the name of Abdul Wahed. Still, the learned tribunal below, without considering the same, allowed the appeal by reversing the judgment and decree of the learned Arpita Sampatti Protayarpan Tribunal, which is illegal, *mala fide*, and has been passed without lawful authority; (ii) the learned Appeal Tribunal below did not consider that the S.A. Khatian

was rightly prepared and published in the name of the Abdul Wahed who was the predecessor of the petitioners in passing his Judgment dated 18.10.2021 which is illegal, *mala fide* and have been passed without lawful authority; (iii) learned Appellate Tribunal did not consider the facts that Divendra Kishore or Jitendra Kishore Sarker did not purchase the land of the suit plot No. 60 in passing his Judgment dated 18.10.2021 which is illegal, *mala fide* and have been passed without lawful authority; and (iv) The petitioners are possessing and enjoying the suit land.

Conversely, Mr. M. Atikur Rahman, learned Counsel for the respondent Nos. 5 to 15, submitted that the case lands of both suits are common, especially in respect of the land appearing to CS/SA plot No. 60. The learned Tribunal, through Decree dated 16.08.2016, directed the respondent No.2 to release the CS/SA plot No. 60 from "Ka" Schedule in vested property (V.P.) Case No. 206 of 2012. Subsequently, the same plot has got, no scope to be released through Decree dated 07.11.2016 passed in vested property (V.P.)

Case No. 924 of 2013. The CS/SA plot no. 60 is released from the "Ka" Schedule, and the same property need not be released twice, and as such, the Rule issued in the instant writ petition may kindly be discharged for ends of justice.

Learned Counsel further submitted that the released order dated 16.08.2016 was affirmed by the Arpita Appeal No.12 of 2016 by the learned Additional District Judge and Arpita Sampatti Otirikta Appeal Tribunal, Kishoreganj vide order dated 18.10.2021, on the other hand the Arpita appeal No. 27 of 2016 was allowed and as such the Rule issued in the instant writ petition may kindly be discharged for ends of justice.

He in addition submitted that the learned Appellate Tribunal, in the judgments delivered in both the Arpita Appeals, observed that "the claim of the petitioners in Orpita Case No. 206 of 2012 is stronger and more reasonable than that of the petitioners in Orpita Case No. 924 of 2013." In view of the said finding, the learned Appellate Tribunal dismissed Arpita Appeal No. 12 of 2016

and allowed Arpita Appeal No. 27 of 2016. As such, the Rule issued in the instant writ petition is liable to be discharged for the ends of justice.

Learned Counsel has furthermore submitted that the learned Appellate Tribunal, in the judgments of both the Arpita appeals, observed that under section 12 of the Orpita Sampatti Prottarpan Ain, 2001, the decree passed in an Arpita case is not a decree of title and possession in favour of the petitioners with respect to the suit land. Rather, it is merely a decree for the release of the property from the Government. Upon such release, both parties remain at liberty to institute appropriate proceedings before the Civil Court to establish their respective titles over the disputed land. Therefore, at this stage, no further relief is available to the parties under the said Act, and accordingly, the Rule may be discharged for the ends of justice.

Finally, learned Counsel has submitted that the land in question has already been released from the "Ka" Schedule, the relief sought in the writ petition has become infructuous

and academic. No effective order can now be passed in writ jurisdiction, and as such, the present writ petition is therefore not maintainable and is liable to be discharged.

More importantly learned Deputy Attorney General, Mr. Md. J. R. Khan Robin, made submissions averring that in the instant case, both the Tribunals failed to identify the real owners or successor-in-interests in the suit property, as the Arpita Sampatti Pratyarpan Tribunal decreed both the suits ascertaining the plaintiffs as real owners of the suit properties, on the contrary, the Appellate Tribunal only affirm the plaintiffs of suit No. 206 of 2012, as such, the controversy prevailed yet to determine the successorships of the original owners of the suit property, and more so, both the Tribunals failed to assess the evidentiary value of the VP case, which was properly arising out of the census list. The Government obtained possession of the suit property, and the same was leased out to Rabiya Khatun and others vide VP case No. 153/1972-73; moreover, the R.S. record of the suit land was wrongly published in the name of

some title-less persons; consequently, the instant Rule is liable to be discharged.

On perusal of the writ petition, affidavit-in-opposition, and documents appended thereto, as well as the application for discharging the Rule, it is found that the question released from the 'Ka' scheduled land in the name of respondents No.5 to 15 and all the material facts have been brought in the notice of both parties of the Arpita Sampatti Protyarpan Appeal Tribunal, and the Government did not prefer any higher forum against the judgment and decree passed in Arpita Appeal No. 12 of 2016, and the instant writ petitioners did not challenge the same even as a third party. Accordingly, the judgment and decree passed in Arpita Appeal No. 12 of 2016 remained in force to release the suit property in the name of the added respondent Nos. 5-15 as unchallenged.

However, we need to take notice of the legal propositions of the vested property, as it is found that on the backdrop of armed conflict between India and Pakistan in 6th

September 1965 to 23rd September 1965, a State of Emergency was proclaimed by the Government of Pakistan by Defence of Pakistan Ordinance, 1965 (Ordinance No. XXIII of 1965) whereunder Defence of Pakistan Rules 1965 (1965 Rules) was promulgated. In the pretext of powers under the 1965 Rules, the Government of Pakistan indiscriminately took over the properties of Hindus as being enemies or enemy subjects or anyone who appears to the Pakistan Government to be associated with enemies in the then East Pakistan. Although the armed conflict between India and Pakistan ended in 23rd September, 1965, the State of Emergency continued up until 16 February 1969, on which date the Government of Pakistan promulgated the Enemy Property (Continuance of Emergency Provisions) Ordinance, 1969 by operation of which the provisions relating to vesting of 'Enemy Property' contained in the 1965 Rules continued to be in force until the magnificent liberation war of 1971, the arbitrary and discriminate confiscation of properties belonging to the Hindus and other enemies of the then East

Pakistan continued by the Government of Pakistan. Thus, no enactments or ordinances were enacted to bar the registration processes of any properties of the Hindus or enemies of Pakistan. The Liberation War of 1971 was fought based on the denial of the two-nation theory by the Bengali nation and thus the fundamental character of the Liberation War of 1971 was compatible with the notion of equal rights for every citizen irrespective of religion, caste or creed by the proclamation of independence declared at Mujibnagar on 10th April 1971 by the elected representatives of the General Election of 1970 “to ensure for the people of Bangladesh equality, human dignity and social justice” and thus proclaimed Bangladesh as a sovereign Republic. On the same day, i.e., 10th April, 1971, Laws of Continuance Enforcement Order, 1971 was promulgated purporting to keep in force all the Pakistani laws which were in force in the then East Pakistan on or before 25th March, 1971, which were not in conflict with the proclamation of Independence. Bangladesh was not a successor state of Pakistan, but rather established

itself by pursuing a war of liberation against Pakistan. Immediately after liberation, on 26th March 1972, the Government of Bangladesh promulgated the Bangladesh (Vesting of Property and Assets) Order, 1972 (P.O. No.29 of 1972). By this order, all properties situated in East Pakistan that belonged to the Pakistan Government became vested in the People's Republic of Bangladesh. Accordingly, all Government properties, including but not limited to Khaas land, river, Enemy Properties listed under the 1965 and 1969 Ordinance, etc., became vested in Bangladesh. Although by the operation of the Proclamation of Independence and the Laws of Continuance Enforcement Order, 1971, the 1969 Ordinance lost its applicability in the People's Republic of Bangladesh, in 1974 the Government of Bangladesh, for ensuring further equality of all the citizens promulgated the Enemy Property (Continuance of Emergency Provisions) (Repeal) Act, 1974 (Act XLV of 1974), expressly repealing Ordinance I of 1969. This Act ensured that no property shall be included after 23.03.1974 as vested property. However,

the 1974 Act stopped short of returning the 'enemy property' to the original owners or their heirs who became citizens of Bangladesh, and in fact, the 1974 Act left all 'enemy properties and firms' which were vested with the custodian of 'enemy property' in the then East Pakistan, vested in the Government of Bangladesh. According to section 3 of the 1974 Act, such properties remained vested in the Government of Bangladesh; however, the Act did not give any wide power to the Government to manage or dispose of such properties. On 20th January 1975, the Ministry of Law, by its Circular No.51, issued an order to immediately de-list any property included in the 'enemy property' list after enactments of the 1974 Act. Subsequently, on 26th July 1975, the Ministry of Law issued its Circular No. VNR 29/75 issued a direction to stop any listing of property as 'enemy property' and also to submit a detailed report on any such listing. Thereafter, the Government promulgated the Enemy Property (Continuance of Emergency provisions) (Repeal) (Amendment) Ordinance,

1976 (Ordinance No. XCIII of 1976) by which section 3 of the 1974 Act was amended to give further power to the Government about the enemy properties. Section 2 of the Ordinance added power to administer, control, manage, and dispose of by transfer or otherwise by the Government or by such office or authority as the Government may direct. In the backdrop of the facts and circumstances delineated hereinbefore, it is discernible that certain aggrieved persons, having been adversely affected by the enlistment of their properties in the census lists and their subsequent treatment as Vested Property, approached the competent Civil Courts by instituting suits for declaration. The learned Courts below, upon due consideration of the evidence on record and the relevant provisions of law, were pleased to hold that such inclusion and classification had been made without lawful authority and in excess of jurisdiction. Accordingly, the same were declared to be illegal, void and of no legal effect, and the plaintiffs were granted the declaratory reliefs sought for. However, in 1999, the Parliamentary Standing Committee

prepared a draft law intending to return possession of the properties listed as 'enemy property' since 1969 to their original owners who were citizens of Bangladesh or their heirs under applicable personal law. The title of the draft law was the Vested Property (Return of Possession) Bill, 1999. According to the draft law, it was expected that upon enactment, subject to the provision of determination claim provided in the draft Act, any property which was not listed before 16th February 1969 would cease to be treated as vested on the Government as 'enemy property' and the title and possession of the original owner who is a citizen of Bangladesh or his lawful heirs would be restored. In the said draft of 1999, it was expressly provided upon enactment of the draft Act, that any lease created by the Government on such properties would be deemed to be cancelled. Subsequently, to the utter surprise, in the name of examining the draft in the Ministry of Land, for further improvement, it has been transformed into অর্পিত সম্পত্তি প্রত্যর্পণ বিল (2000 Bill) the main features of the draft proposed by the

Parliamentary Committee, has been abruptly changed by the Bureaucratic process, headed by the Secretary of the Ministry of Land. The word “প্রত্যর্পণ” is not commensurate with the Indo-Pak subcontinent Land Laws, and equity from Nababi Amal to the present time “প্রত্যর্পণ” is used for moveable property. However, the Parliament enacted the 2001 Act, namely অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১, deviating from the initial scheme of reinstating title and possession of the original owners of the properties listed as enemy property.

However, if we look into **the purpose of the অর্পিত সম্পত্তি প্রত্যর্পণ আইন, ২০০১**, it might be found that-“যেহেতু অর্পিত সম্পত্তি হিসাবে তালিকাভুক্ত কতিপয় সম্পত্তি বাংলাদেশী মূল মালিক বা তাহার বাংলাদেশী উত্তরাধিকারী বা উক্ত মূল মালিক বা উত্তরাধিকারীর বাংলাদেশী স্বার্থাধিকারী (Successor-in-interest) এর নিকট প্রত্যর্পণ এবং আনুষংগিক বিষয়াদি সম্পর্কে বিধান প্রণয়ন সমীচীন ও প্রয়োজনীয়”, which **manifestly indicates that the rightful claimants likely original owner, or his Bangladeshi heirs or their successor-in-interest shall be entitled to have the properties which**

had been included during the period of 06.09.1965 to 23.03.1974, and the other included properties beyond those period need not be declared to be released, rather be considered as void inclusion *ifso facto*.

Now the case in our hand exposed that the present petitioners, as plaintiffs, instituted V.P. Case No. 924 of 2013 before the same Tribunal seeking release of the land appertaining to CS/SA Plot No. 60 from the same "Ka" Schedule Gazette dated 06.05.2012, and the same was decreed with a direction to release the property. On the contrary, added respondents Nos. 5-15 as plaintiffs filed vested property (V.P.) Case No. 206 of 2012 for releasing the same properties from the 'Ka' scheduled land. The learned Tribunal also decreed the said suit upon the very same land. Therefore, the Government preferred Arpita Appeal No. 27 of 2016 and Arpita Appeal No. 12 of 2016 respectively against those judgments and decrees. The learned Arpita Sampatti Pratyarpan Appellate Tribunal, for the sake of convenience and to avoid conflicting decisions, was pleased to hear both

the appeals analogously. Upon due consideration of the submissions advanced by the respective parties and after a comprehensive appraisal of the materials on record, the learned Appellate Tribunal disposed of the said appeals by separate judgments and decrees dated 18.10.2021 (the decrees pursuant thereto having been drawn up and signed on 24.10.2021), whereby Arpita Appeal No. 12 of 2016 was dismissed, while Arpita Appeal No. 27 of 2016 was allowed by observing that, "As CS tenants or their successor(s)-in-interest who are the predecessor(s)-in-interest of the petitioners of Arpita Case No.924/13 transferred the case land in favour of the predecessor(s)-in-interest of the petitioners of Arpita Case No.206/12 by deeds and there are registered deeds in respect of the same, the petitioners of Arpita Case No.924/13 have no scope to claim the suit land by inheritance on the basis of mere CS khatian because their predecessors-in-interest upon transferring the land appertaining to the suit plots were disentitled there from. Moreover, there is also mention of the name of the donors

of the deeds marked as Ext. Nos. 2-10 in SA khatian No.214 in the remark/possession column thereof. That means the predecessor(s), in the interest of the petitioners of Arpita Case No.206/12, were in possession of the suit land, including other land.”

In the premises, it is evident that the petitioners have failed to rebut the impugned findings, as the grounds taken in the instant writ petition do not address or negate the same in any material particular.

Upon a careful perusal of the judgment rendered by the learned Appellate Tribunal, it transpires that the learned Judge undertook a meticulous examination to ascertain the gravamen of the facts in issue, observing that, “the Ext. Nos. 4, 5, 6 & 7 of Arpita Case No.206/12 show that the petitioners Aptab Uddin, Sohrab Uddin, Mohiuddin, and Bacchu Meah purchased the land measuring 14 decimals appertaining to CS/SA plot No.60, including other land by registered deeds marked as Ext. Nos.4, 5, 6 & 7. Moreover, the registered deeds and RS khatians are marked as the Ext.

Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11(ক), 11(খ), 11(গ), and 11(ঘ) have presumptive value in the eye of the law. On consideration of the provisions of Sections 114 and 101 of the Evidence Act, this Tribunal is of the opinion that a registered sale deed carries a presumption of genuineness; the burden to prove that it is not genuine lies on the person who alleges that it is not so. The opposite party did not challenge the legality of the Ext. Nos.2-10 too. It has already been established by the evidence discussed hereinbefore that the claim of the petitioners of Arpita Case No.206/12 is stronger and more reasonable than that of the petitioners of Arpita Case No. 924/13.”

However, we consider it expedient to address the submission advanced by the learned Deputy Attorney General concerning the determination of the ‘real owners or successors-in-interest’ in respect of the suit property. In this regard, it is pertinent to observe that no provision under section 12 of the অর্পিত সম্পত্তি প্রত্যাপন আইন, ২০০১ casts any legal obligation upon the Tribunal to finally adjudicate upon or

conclusively determine the title to the property in question, save and except for undertaking a *prima facie* scrutiny of the chain of documents and examining their apparent genuineness and authenticity for the limited purpose of the proceeding.

The statutory function and jurisdiction of the Tribunal are circumscribed and confined to considering whether the property is liable to be released in favour of the original owner(s), their heirs, or lawful successors-in-interest based on such *prima facie* satisfaction. The Tribunal does not assume the role of a civil court in rendering a definitive pronouncement on intricate questions of title.

Accordingly, any dispute, controversy, or competing claim relating to inheritance, succession, or title of the property so released does not fall within the ambit of the Tribunal's jurisdiction. Such matters must be agitated before and adjudicated by the competent civil court of appropriate jurisdiction, which alone is vested with the authority to

conclusively determine the rights, title, and interest of the parties in accordance with law.

On shifting the judgments and decrees of the learned Appellate Tribunal and the Arpita Sampatti Pratyarpan Tribunal, Kishoreganj, it is found that both the Tribunals concurrently found that the suit property was enlisted erroneously. In the instant writ, the added respondents successfully proved their pedigree, right, title, and interest as well as possession of the suit property by adducing and producing proper evidence and documents.

Upon a careful consideration of the aforesaid facts and the governing law, we are of the considered opinion that both the learned Arpita Sampatti Pratyarpan Tribunal and the Appellate Tribunal, having concurrently adjudicated in favour of the release of the suit property, did not commit any manifest illegality or legal infirmity in their respective decisions. Accordingly, we discern no tenable ground to warrant interference with such concurrent findings so far

relates to the Arpita case No. 206 of 2012. In the result, the Rule, being devoid of substance, is liable to be discharged.

Accordingly, the Rule is discharged without any order as to costs.

The petitioner is hereby directed to give effect to and implement the judgment and decree dated 16.08.2016 (decree signed on 22.08.2016) passed by the learned Judge, Arpita Sampatti Pratyarpan Tribunal, Kishoreganj, in Arpita Sampatti Pratyarpan Suit No. 206 of 2012, whereby the suit was decreed, and which was subsequently affirmed by the judgment and decree dated 18.10.2021 delivered by the learned Judge, Arpita Sampatti Pratyarpan Otirikta Appeal Tribunal, Kishoreganj, in Arpita Sampatti Pratyarpan Appeal No. 12 of 2016 dismissing the appeal, within a period of 60 (sixty) days from the date of receipt of a copy of this judgment and order, without fail.

In default of compliance, the petitioner shall be liable to suffer the consequences as contemplated under Section 32 (Ga) of the অর্পিত সম্পত্তি প্রত্যারণ আইন, ২০০১ (সংশোধিত-২০১১).

The order of status quo granted earlier by this Court is hereby recalled and vacated.

The office is directed to send down the SCR (if any) along with a copy of the judgment and order forthwith.

(Abdur Rahman, J)

K.M. Hafizul Alam, J:

I agree.

(K.M. Hafizul Alam, J)