

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

Writ Petition No. 4959 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:

Md. Lehaz Uddin and others

..... **Petitioners.**

-Versus-

Government of Bangladesh, represented by the Secretary, Ministry of Land, Bangladesh Secretariat Building, Ramna, Dhaka and others,

. **Respondents.**

Mr. Md. Nurul Amin, Advocate with

Mr. S.M. Tariqul Islam, Advocate

.....**For the petitioners.**

Mr. Md. Imam Hasan, Advocate

.....**For respondent No.5.**

Judgment on: 17.01.2024

Present:

Mr. Justice Md. Khasruzzaman

And

Mr. Justice K M Zahid Sarwar

Md. Khasruzzaman, J:

In the application under article 102 of the Constitution, on 24.04.2022 *Rule Nisi* under adjudication was issued in the following terms:

“ Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned notices dated 17.08.2016 and the impugned notices dated 06.06.2018 under sections 3 and 6 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 issued by the

respondent Nos. 2 and 4 respectively in L.A. Case No. 01/2016-17 (Annexures- B,C, E, F, H, I, K, L, N, O, Q, R, T, U, W, X, Z, AA, CC, DD, FF, GG, II, JJ, LL, MM, OO, PP, RR, SS, UU, VV, XX, YY) purportedly proposing to acquire the land in Dhaka City Jorip Plot Nos. 203, 302, 525, 622, 623, 624, 625, 626, 627, 628, 629, 630, 634, 635, 642 appertaining to Dhaka City Jorip Khatian Nos. 3, 4, 7, 8, 13, 14, 22, 46, 59, 57, 62, 71, 73, 76, 77, 98, 116 under Mouza-Korail, Police Station-Gulshan, District-Dhaka should not be declared to have been issued without lawful authority and is of no legal effect and why a direction should not be given upon the respondents to award compensation to the petitioners as per law and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Facts relevant for disposal of the *Rule Nisi*, in short, are that land measuring 6.92 acres appertaining to C.S. Khatian No.23, C.S. Plot Nos. 68 and 77 belonged to Khalil Miah who is the predecessor of petitioner Nos. 1 to 15. The said C.S. recorded tenant Khalil Miah died leaving behind three sons namely- Ataur Rahman, Kitab uddin, Sharif uddin and two daughters namely- Fulzan Bibi and Sukurzan Bibi and one widow Asia Khatun to inherit his left out property as legal heirs. Subsequently, they partitioned the land amongst

themselves by executing registered partition deed No. 7025 dated 15.10.1968. During R.S. survey, their names were duly recorded in R.S. Khatian No.9. During Dhaka City Survey, 94.46 decimals of land in Plot Nos. 302, 622, 623, 624, 625 and 626 were duly recorded in the name of Ataur Rahman in Dhaka City Jorip Khatian No.4. On 05.02.2000 Ataur Rahman died leaving behind petitioner Nos. 1 to 7, father of petitioner Nos. 8 to 12 and mother of petitioner Nos. 13 to 15 to inherit the left out 94.46 decimals of land as his legal heirs (vide Annexures-A, A-1 to A-8 to the writ petition).

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of predecessor of petitioner Nos. 1 to 15 and others to acquire the land measuring 5.8571, 0.0604, 0.1992, 0.1288, 0.3308 and 0.0635 acres respectively in Dhaka City Jorip Plot Nos. 302, 622, 623, 624, 625 and 626 of Dhaka City Jorip Khatian No.4, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of "Gulshan-Banani-Baridhara Lake Development Project" by the respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-B to the writ petition.

It is stated that the petitioner No.16, Bangladesh Jamiatul Mudarreseen is the owner and possessor of 33.00 decimals of land through different purchase deeds on different dates. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.3 against Plot No.525 in the name of petitioner No.16 and others vide Annexures-D, D-1 to D-6 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of petitioner No. 16 and two others to acquire 0.6744 acre of land in Dhaka City Jorip Plot No. 525 of Dhaka City Jorip Khatian No.3, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-E to the writ petition.

It is stated that the petitioner Nos.17 to 21 are the owners and possessors of 25.00 decimals of land by inheritance through their predecessors who purchased from R.S. recorded tenant Wazuddin vide registered sale deed No.5987 dated 22.09.1982. The land was duly recorded in

Dhaka City Jorip Khatian No.14 against Plot No.525 in the name of predecessors of the petitioner Nos.17 to 21 vide Annexures-G, G-1 to G-12 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names the predecessors of petitioner Nos. 17 to 21 to acquire 0.6744 acre of land in Dhaka City Jorip Plot No. 525 of Dhaka City Jorip Khatian No.14, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-H to the writ petition. It is stated that out of the said 0.6744 acre of land the petitioner Nos. 17 to 21 are the owners of only 28.00 decimals of land.

It is stated that the petitioner Nos. 22 and 23 are the owners and possessors of 4.12 decimals of land by purchase from Mst. Anowara Begum vide registered sale deed No. 3122 dated 21.03.1994. Subsequently, they mutated their names in R.S. Khatian No.60. Thereafter, the land was duly recorded in Dhaka City Jorip Khatian No.57 against Plot No.642 in the names of petitioner Nos.22 and 23. Petitioner No.24 is the

owner of 4.12 decimals of land by purchasing from R.S. recorded tenant and the land was duly recorded in Dhaka City Jorip Khatian No.62 against Plot No.642 vide Annexures-J, J-1 to J-9 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of petitioner Nos. 22 to 24 to acquire 0.0824 acre of land in Dhaka City Jorip Plot No. 642 of Dhaka City Jorip Khatian Nos. 57 and 62, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-E to the writ petition.

It is stated that the petitioner No.25 is the owner and possessor of 4.50 decimals of land by purchasing registered sale deed No. 955 dated 19.01.1987. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.116 against Plot No.635 in the name of petitioner No.25 vide Annexures-M, M-1 to M-9 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the

Acquisition and Requisition of Immovable Property Ordinance, 1982 in the name of petitioner No.25 to acquire 0.2275 acre of land in Dhaka City Jorip Plot No. 635 of Dhaka City Jorip Khatian No.116, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-N to the writ petition. But it is stated that he is the owner of only 4.50 decimals of land out of 0.2275 acre as mentioned in the notice.

It is stated that the petitioner Nos.26 to 38 are the owners and possessors of 22.72 decimals of land by inheritance and their names were duly recorded in S.A. Khatian No. 18 and R.S. Khatian No.16. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.13 against Plot No.635 vide Annexures-P, P-1 to P-6 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of predecessors of petitioner Nos. 26 to 38 to acquire 0.2275 acre of land in Dhaka City Jorip Plot No. 635 of Dhaka City Jorip Khatian No.13, Mouza-Korail, J.L.

No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-Q to the writ petition. It is mentioned that they are the owners of 22.72 decimals out of 22.75 decimals land as mentioned in the notice.

It is stated that the petitioner Nos. 39 to 45 are the owners and possessors of 4.12 decimals of land by inheritance got from their deceased mother who purchased the same from one Md. Israfil vide registered sale deed No.4544 dated 28.12.1983. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.46 against Plot No.302 in the name of predecessor of petitioner Nos. 39 to 45 vide Annexures-S, S-1 to S-9 to the writ petition.

On 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of predecessor of petitioner Nos. 39 to 45 to acquire 5.8571 acres of land in Dhaka City Jorip Plot No. 302 of Dhaka City Jorip Khatian No.46, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-

Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-T to the writ petition. Whereas the petitioner Nos. 39 to 45 are the owners of only 4.12 decimals of land out of said 5.8571 acres land.

It is stated that petitioner Nos. 46 to 50 are the owners and possessors of 40.25 decimals of land by purchasing through five registered sale deeds on different dates. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.77 against Plot No.302 in their names vide Annexures-V, V-1 to V-5 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of petitioner Nos. 46 to 50 to acquire 5.8571 acres of land in Dhaka City Jorip Plot No. 302 of Dhaka City Jorip Khatian No.77, Mouza-Korail, J.L. No.18, Police Station-Gulshan, District-Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-W to the writ petition. Whereas they are the owners of only 40.25

decimals of land out of said 5.8571 acres of land as mentioned in the notice.

It is stated that petitioner Nos. 51 to 59 are the owners and possessors of 95.00 decimals of land by inheritance from their predecessor Monir Uddin who purchased the same vide two registered sale deed Nos. 8394 dated 27.06.1980 and 8395 dated 27.06.1980. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.71 against Plot No.302 in the name of their predecessor vide Annexures-Y, Y-1 to Y-3 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of the predecessor of petitioner Nos. 51 to 59 to acquire 5.8571 acres of land in Dhaka City Jorip Plot No. 302 of Dhaka City Jorip Khatian No.71, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-Z to the writ petition. Whereas they are the owners of 95.00 decimals of land out of said 5.8571 acres of land as mentioned in the notice.

It is stated that the petitioner Nos. 60 and 61 are the owners and possessors of 3.00 katha *i.e.* 6.42 decimals of land by purchasing through registered sale deed No.915 dated 21.01.1996. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.8 against Plot No.634 in their names vide Annexures-BB and BB-1 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of petitioner Nos. 60 and 61 to acquire 0.7300 acres of land in Dhaka City Jorip Plot No. 634 of Dhaka City Jorip Khatian No.8, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-CC to the writ petition. Whereas they are the owners of only 6.42 decimals of land out of said 0.7300 acre of land as mentioned in the notice.

It is stated that the petitioner Nos. 62 and 63 are owners and possessors of 24.75 decimals of land by purchase through two registered sale deeds from their brother. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.76

against Plot No.302 in their names vide Annexures-EE, EE-1 and EE-2 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of petitioner Nos. 62 and 63 to acquire 5.8571 acres of land in Dhaka City Jorip Plot No. 302 of Dhaka City Jorip Khatian No.76, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-FF to the writ petition. Whereas they are the owners of only 24.75 decimals of land out of said 5.8571 acres of land as mentioned in the notice.

It is stated that Osman Ali, Mohammad Ali, Aklima, Mst. Rahima Khatun, Jasmin, Zahera Khatun, Kazol Sarker, Taslima, Rahima Akter Papia, Mosammat Kulsum, Md. Shahid and Rashma Akter who are represented by petitioner No. 64 as their constituted attorney are owners and possessors of 19.84 decimals of land by inheritance through their predecessor Sahera Bibi alias Sahera Begum and Abdul Hakim and Sabera Khatun. Subsequently, the land was duly recorded in Dhaka

City Jorip Khatian No.16 against Plot No.203 in their names vide Annexures-HH, HH-1 to HH-5 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the names of the predecessors of the persons represented by petitioner No. 64 to acquire 2.9299 acres of land in Dhaka City Jorip Plot No. 203 of Dhaka City Jorip Khatian No.16, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-W to the writ petition. Whereas they are the owners of only 19.84 decimals of land out of said 2.9299 acres of land as mentioned in the notice.

It is stated that Salma Begum represented by petitioner No. 65 as her constituted attorney is the owner and possessor of 12.38 decimals of land by purchasing vide registered sale deed No. 2798 dated 09.08.1988. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.98 against Plot No.203 in their names vide Annexures-KK, KK-1 to KK-4 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the name of the person (Salma Begum) represented by petitioner No. 65 to acquire 2.9299 acres of land in Dhaka City Jorip Plot No. 203 of Dhaka City Jorip Khatian No.98, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-LL to the writ petition. Whereas she is the owner of only 12.38 decimals of land out of said 2.9299 acres of land as mentioned in the notice.

It is stated that the petitioner No. 66 is the owner and possessor of 8.25 decimals of land by purchasing through two registered sale deeds being Nos. 2795 and 2797 both dated 09.09.1983. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.22 against Plot No.302 in his name vide Annexures-NN, NN-1 to NN-4 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the name of petitioner No. 66 to acquire 5.8571 acres

of land in Dhaka City Jorip Plot No. 302 of Dhaka City Jorip Khatian No.22, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-OO to the writ petition. Whereas he is the owner of only 8.25 decimals of land out of said 5.8571 acres of land as mentioned in the notice.

It is stated that the petitioner No. 67 is the owner and possessor of 1.041 acres of land by purchase through several registered sale deeds. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.50 against Plot Nos.627, 628, 629 and 630 in his name vide Annexures-QQ, QQ-1 to QQ-9 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the name of petitioner No. 67 to acquire 1.041 acres of land in Dhaka City Jorip Plot Nos. 627 to 630 of Dhaka City Jorip Khatian No.50, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK)

vide Annexure-RR to the writ petition. He is the owner of the said quantum of land as mentioned in the notice.

It is stated that the petitioner Nos. 68 to 84 are the owners and possessors of 13.00 decimals of land by inheritance. Subsequently, the land was duly recorded in Dhaka City Jorip Khatian No.7 against Plot No.526 in his name vide Annexures-WW, WW-1 to WW-4 to the writ petition.

Whereas on 17.08.2016 the respondent No.2, Deputy Commissioner, Dhaka issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 in the name of the predecessor of petitioner Nos. 68 to 84 and others to acquire 0.3408 acre of land in Dhaka City Jorip Plot No. 526 of Dhaka City Jorip Khatian No.7, Mouza-Korail, J.L. No.18, P.S.-Gulshan, Dhaka vide L.A. Case No.01/2016-2017 for implementation of “Gulshan-Banani-Baridhara Lake Development Project” by respondent No.5, Rajdhani Unnayan Kartipakkho (RAJUK) vide Annexure-XX to the writ petition. Whereas they are the owners of 13.00 decimals of land out of said 0.3408 acre of land as mentioned in the notice.

After serving notices under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982, respondent No.4 on behalf of respondent No.2 on 06.06.2018

issued notices under section 6 of the Ordinance illegally without complying with mandatory provision of law.

Under such circumstances, the petitioners have challenged the all notices dated 17.08.2016 and 06.06.2018 under sections 3 and 6 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 respectively in the instant writ petition and obtained the *Rule Nisi* as quoted hereinabove.

Respondent No.5 i.e. the requiring body filed *affidavit-in-opposition* denying the material statements made in the writ petition and contending *inter-alia* that RAJUK being requiring body undertook a project namely “Gulshan-Banani-Baridhara Lake Development Project” and decided in its 108th meeting held on 14.07.2017 to acquire 25.4308 acres of land. In due process, the respondent No.2, Deputy Commissioner, Dhaka initiated L.A. Case No. 01/2016-2017 and issued notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 to all interested persons. After receiving notices under section 3, five (05) objections were raised under section 4 of the Ordinance, 1982. The authority of RAJUK having considered those objections excluded 0.1586 acre of land and thereby finalized the plan of the project. Thereafter, on 16.10.2019 the respondent No.2, Deputy

Commissioner, Dhaka sent the estimate of the award of compensation of TK.1132,73,38,485.97 to the RAJUK. Whereupon, RAJUK visited the area and enquired into about justification of the estimate of the award of compensation and thereby found that the estimate of award of compensation is higher than the actual price of the land. As such, RAJUK vide memo dated 21.11.2019 requested the respondent No.2 to revise the estimate of award of compensation money vide Annexures 2, 2/1 and 2/2 to the affidavit in opposition. It is stated that there is no violation in the acquisition process. The acquiring body observing all legal formalities issued notices under sections 3 and 6 of the Acquisition and Requisition of Immovable Property Ordinance, 1982.

By filing supplementary *affidavit-in-opposition* respondent No.5 stated that the aforesaid project was undertaken by RAJUK with the affiliation of Bangladesh Army. For implementation of the said project, ECNEC approved Tk.410.25 crore, out of which the Government will fund Tk.314.63 crore and the rest Tk.95.62 crore shall be borne in by RAJUK from its own fund. The Government at different times released TK.223.67 crore out of TK.314.63 crore and it was deposited in favour of the respondent No.2, Deputy Commissioner, Dhaka. The Government has in the meantime directed the RAJUK to reform the project including

rehabilitation of the inhabitant of Korail slum. In compliance of such direction, on 07.12.2022 the RAJUK sent a letter to the Ministry of Housing and Public Works to reform the project vide Annexures-3, 3/1 and 3/2 to the supplementary *affidavit-in-opposition*. It is stated that due to reforming the project, RAJUK could not receive the rest of amount from the Government. But it has already deposited the money received from the Government with the respondent No.2. RAJUK has also sent a letter to the Ministry of Housing and Public Works for taking steps to release the rest of the amount in favour of the project. So, there is no violation or laches of neither on the part of acquiring body nor on the part of the acquiring body in this respect.

Mr. Md. Nurul Amin, the learned Advocate appearing with Mr. S.M. Tarikul Islam, the learned Advocate on behalf of the writ petitioners submits that it is true that the Government can acquire the property of a citizen only when the same is needed for public purpose or public interest in accordance with law. Referring to notice under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 he further submits that the process of acquisition of the proposed land was not held to have been made for public purpose or interest and as such, the same is illegal and without lawful authority. In this respect, the learned Advocate

has relied on a decision in the case of **Malik Medhi Kabir and another Vs. Rabitat-al-Alam-al-Islam and others, 63 DLR (AD) 109**. As such, the impugned notices as well as the entire process of acquisition are in violation of article 42 of the Constitution. He also submits that the quantum of proposed land intended to be acquired by issuing notice under section 3 of the Ordinance, 1982 is more than that the respective petitioner owned and possessed and as such, the same is vague, indefinite, unspecified and uncertain and as such, the owners of the land have been deprived of raising effective objection against the said acquisition process and hence the same is illegal and without lawful authority. In this respect he has relied in the case of **Haji Abdur Rahim Vs. Secretary, Ministry of Land Administration and Land Reforms, 46 DLR 378**. He contends that the process of acquisition was not completed as per law and as such no compensation money was paid to the petitioners but the lake development project has been completed and as such he has prayed for to complete the acquisition process and to pay the compensation money to the petitioners and others.

Mr. Md. Imam Hasan, the learned Advocate appearing on behalf of the respondent No.5-RAJUK submits that in due process the project under the name and style “Gulshan-Banani-Baridhara Lake Development Project” was undertaken

and in due process, the respondent No.2, Deputy Commissioner, Dhaka initiated L.A. Case No. 01/2016-2017 and issued notices under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 to all interested persons. He further submits that on 16.10.2019 the respondent No.2, Deputy Commissioner, Dhaka sent the estimate of the award of compensation to RAJUK and as such there is no violation in the acquisition process. He also submits that ultimately the Government in its ECNEC meeting approved total expenditure of the project of TK. 410.25 crore, out of which the Government will fund Tk. 314.63 crore and the rest Tk. 95.62 crore shall be borne in by RAJUK from its own fund. He contends that the Government in the meantime released TK.223.67 crore out of TK.314.63 crore which was deposited in favour of the respondent No.2, Deputy Commissioner, Dhaka and due to reforming the project, RAJUK could not receive the rest of the amount from the Government. However, RAJUK has also sent a letter to the Ministry of Housing and Public Works for taking steps to release the rest of the amount in favour of the project. So, there is no violation or laches of neither on the part of acquiring body nor on the part of the requiring body in this respect. Consequently, he prays for discharging the *Rule Nisi*.

We have considered the submissions of the learned Advocate appearing on behalf of their respective party and perused the writ petition and other documents annexed thereto as well as the relevant law and decisions referred to above.

Let us answer first to the question as to whether the proposed land intended to be acquired by the Government is for public purpose or public interest. In this respect, we need to go through the notice issued to the petitioners or in the names of their predecessors under section 3 of the Acquisition and Requisition of Immovable Property Ordinance, 1982. For this purpose, the relevant portion of one of the notices vide Annexure-B reads as follows:

“ নোটিশ
(৩ ধারার অধীনে)

প্রাপক, আতাউর রহমান গং
পিতাঃ-খলিল মিয়া

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যেহেতু নিম্ন তফসিল বর্ণিত সম্পত্তি রাজধানী উন্নয়ন কর্তৃপক্ষ(রাজউক) কর্তৃক বাস্তবায়নাধীন ' গুলশান-বনানী-বারিধারা লেক উন্নয়ন শীর্ষক প্রকল্প বাস্তবায়নের উদ্দেশ্যে এবং জনস্বার্থে প্রয়োজন, সেহেতু এক্ষণে স্থাবর সম্পত্তি অধিগ্রহণ ও হুকুমদখল অধ্যাদেশ ১৯৮২ (১৯৮২ সনের ২ নং অধ্যাদেশ) (সংশোধিত ১৯৯৪ সনের ২০ নং আইন) এর ৩ ধারা অনুযায়ী এতদ্বারা সংশ্লিষ্ট সকলকে অবহিত করা যাচ্ছে যে, উক্ত সম্পত্তি সরকার কর্তৃক অধিগ্রহণের প্রস্তাব করা হয়েছে।” (underlined for emphasis).

So, it cannot be said that the notice is a non-speaking one, rather the word public interest has been used in the said notice. Moreover, the project itself is meant to have been made

for public purpose and public interest. It is not for any private purpose or interest. So, the submission of the learned Advocate for the petitioner on this point is not tenable in the eye of law.

It appears from Annexure-2/1 to the affidavit-in-opposition that the respondent No.2 vide its Memo dated 16.10.2019 sent an estimated amount of compensation to the RAJUK. In the said memo the respondent No.2 mentioned that against the process of acquisition vide LA Case No. 01/2016-2017, Writ Petition No.11373 of 2018 is pending. On perusal of Annexure-ZZ to the writ petition, it appears that on similar issue said writ petition was filed and obtained the *Rule Nisi* and an order of status quo over the process of acquisition so far it relates to their property. However, by order dated 10.01.2022 the order of status quo has been extended till 30.06.2022 having considered the submission that the nature and character of the subject matter is still subsisting.

In the meantime, the Government has reformed the development project by including rehabilitation of the inhabitant of Korail slum and the Government vide ECNEC meeting approved Tk. 410.25 crore as expenditure for the project. It is stated in paragraph No.5 of the supplementary affidavit-in-opposition that out of said Tk. 410.25 crore the Government will fund Tk. 314.63 crore and the remaining

amount shall be borne by RAJUK being requiring body from its own fund. It is stated that the Government in the meantime released Tk. 223.67 crore which has been deposited by RAJUK with the respondent No.2, acquiring body. And steps have been taken to release the rest of the amount of compensation money.

It is true that due to pendency of other writ petition and order of status quo over the acquisition process and due to change in the development project and inclusion of the inhabitant of Korail slum, the delay has been caused in payment of the compensation to the affected persons whose land were proposed to have been intended to be acquired.

In section 12 of the Acquisition and Requisition of Immovable Property Ordinance, 1982 it is provided that if the estimated amount of award has not been deposited by the requiring body i.e. RAJUK in the present case under section 7(4) then all proceedings in respect of such acquisition shall, on the expiry of that period, stand abated.

In the present case, the estimated amount of compensation was asked for by the acquiring body vide memo dated 16.10.2019. In reply, RAJUK being requiring body vide its memo dated 21.11.2019 stated that the project has been reformed and it was waiting for approval by ECNEC. By filing supplementary affidavit RAJUK stated that ECNEC has

approved total expenditure of the project at TK.410.25 crore for the said project. Out of that total amount, Government will fund Tk. 314.63 crore and it has already released Tk. 223.67 crore which was deposited with the Deputy Commissioner, Dhaka by RAJUK vide Annexures-3/2 series to the supplementary affidavit in opposition. Save and except the above facts, we also found that challenging the process of acquisition vide same L.A. Case No.01/2016-2017 *Rule Nisi* is pending in Writ Petition No.11373 of 2018. And there was an ad interim order of status quo in respect of the acquisition process. So, it created a smoke-puff in the way of application of section 12 of the Ordinance, 1982, since after reforming in the project, RAJUK being requiring body has already deposited the amount released by the Government of Bangladesh with the acquiring body as per law.

However, since it is a development project and for public interest and since the delay has been caused due to change in the project profile and since RAJUK being requiring body has already deposited compensation money partly with the Deputy Commissioner, Dhaka for payment of the affected persons and since the constitutional provision guarantees for compensation in case of acquisition of land, we are of the view that ends of justice would be best served if the *Rule Nisi* is disposed of with a direction upon the acquiring body and the requiring body to

pay compensation to the petitioners/affected persons whose lands were used to acquire for the project in the name and style- *Gulshan-Banani-Baridhara Lake Development Project* in L.A. Case No. 01/2016-2017.

Hence, the Deputy Commissioner, Dhaka (respondent No.2) is directed to pay compensation money to the petitioners/ affected persons whose land were used to acquire for the project namely- *Gulshan-Banani-Baridhara Lake Development Project* under L.A. Case No.01/2016-2017 following legal formalities within 03 (three) months from the date of receipt of this judgment. The Deputy Commissioner, Dhaka and the RAJUK (respondent Nos. 4 and 5) are also directed to take necessary steps in connection with the process of acquisition in accordance with law.

With the observations and directions the Rule Nisi is disposed of. However, there will be no order as to costs.

Communicate the order.

K M Zahid Sarwar, J.

I agree.