

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

Writ Petition No. 9807 of 2022

IN THE MATTER OF:

An application under Article 102(2) of the
Constitution of the People's Republic of
Bangladesh.

AND

IN THE MATTER OF:

Md. Liton

....Petitioner

Versus

Government of Bangladesh, represented by
the Secretary, Ministry of Power, Energy and
Mineral Resources, Bangladesh Secretariat,
Dhaka and others

....Respondents

Mr. Md. Anwarul Azim Khair Manna, Senior
Advocate with
Mr. Abdul Momen Chowdhury (Rifat),
Advocate

....For the Petitioner

Mr. Ehsan A Siddiq, Advocate with
Mr. Sayed-UI-Haque, Advocate

.... For the respondent No. 3

Mr. M.G. Mahmud (Shaheen), Advocate

.... For the respondent No. 6

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice Md. Akhtaruzzaman

Judgment on 16.05.2024.

Md. Iqbal Kabir, J:

This Rule, was issued, calling upon the respondents to show cause as to why the inaction of the respondents to provide and restore the 4 numbers of Gas connection in favour of the petitioner's house situated at 47/5, Agamasi Lane, Post Office: GPO, Police Station: Bangshal, Dhaka, (Customer Code No. 1124594) and asking petitioner's sister Rehana Begum vide letter No 29.06.2022 to use the gas connection as before according to the approved house line should not be declared to have been passed without lawful authority and is of no legal effect and/or pass

such other or further order or orders as to this Court may seem fit and proper.

Short facts narrated in this application are that Asgori Begum was a consumer of Titas gas having customer ID No. 1124594. She has been using 7 nos. of double burner connection in her house at 47/5, Agamasi Lane, Bongshal, Dhaka which was built on a piece of land measuring an area of 240 ajutangsha. However, on 25.07.2013 Asgori Begum sold 135 ajutangsha land, out of a total 240 ajutangsha with building and all utility connections including gas connections to the petitioner i.e., her only son vide registered sale deed No. 5424. Thereafter, she transferred the remaining part of the aforesaid land i.e., 105 ajutangsha to her daughter Rehana Begum vide Declaration of Heba Deed No. 6582 dated 15.10.2015. It is to be noted that Rehana Begum with the motive of grabbing all the gas connections of her mother and thereby depriving the petitioner from using his connections mutate her name instead of her mother. However, in the month of December 2019, Rehana Begum disconnected the line that supplied gas to the 4 burners belonging to Petitioner's side. Eventually, the tenants of the petitioner left the rented flats which still remain vacant due to lack of gas supply or connection. However, the petitioner requested the authorities with two specific prayers, firstly to mutate his name along with his sister and secondly, to restore the 4 nos. of gas connections of the Petitioner, which his sister wrongfully cut off. Respondent allowed the first prayer but the second prayer remained unheeded.

It is at this juncture being aggrieved by and dissatisfied with the inaction of the respondent, this petitioner brought this application before this Court and obtained the instant Rule.

Upon placing the writ petition along with supplementary affidavit dated 24.04.2024 with documents Mr. Md. Anwarul Azim Khair Manna, learned Senior Advocate for the petitioner submits that there were 4 numbers of gas connections as per the approved house plan. According to him, the petitioner is entitled to get restoration of such connections. In this case, respondents remained silent without restoring those connections thereby violating the long-established principles of natural justice.

He next submits that due to not having gas connections to the flats, all the tenants of those flats left elsewhere, flats remain vacant and Petitioner is facing huge loss because of want of regular tenants and

therefore, the inaction of the respondents for not restoring the gas connections is illegal.

He submits that respondents are aware that the petitioner's gas lines have been disconnected, thus respondent No. 5 discharges his duties by asking Rehana Begum to allow to use of gas connections as per the approved plan as before and thereby giving authority to Rehana Begum to restore the connection independently, as such this act done by the respondent No. 5 is illegal and beyond their legal jurisdiction.

He sought intervention from this Court, thereby this Court may direct the Respondents to restore the connection of the 4 number gas lines in favour of the petitioner's house, otherwise, the petitioner will suffer irreparable loss and injury.

Mr. M.G. Mahmud (Shaheen), learned Advocate for respondent No. 6 by filing an affidavit-in-opposition denied the materials assertion and contested the Rule. He submits that there was no connection of gas in those flats owned by the petitioner thus the question of restoration of gas connection is baseless and does not arise at all.

He submits that the petitioner purchased only one-storied building having 580 sq.ft flat and at that time there was no gas connection therefore, the petitioner did not take any initiative to take a gas connection in his flat.

He submits present deponent filed a Civil Suit against the writ petitioner and Titas Gas Authority and civil suit is pending before the Court below, petitioner contesting such suits. According to him contention raised by the writ petitioner is not amenable to the writ jurisdiction thus the writ petition is not maintainable and as such the rule is liable to be discharged for the ends of justice.

Mr. Sayed-UI-Hauqe, learned Advocate for respondent No. 3 submits that it requires a compromise application in the absence of any compromise agreement between the parties, it is not possible for Titas to make any allocation/distribution of gas connections (in respect of one Customer ID) amongst the parties. However, Titas is ready and willing to provide/restore gas connections to the parties.

We have heard the learned Advocates of both parties perused the writ petition examined the documents annexed thereto, and considered the submissions made by the parties.

It is noted that Asgori Begum was the owner of the land and consumer of Titas gas having customer ID No. 1124594, she has been

using 7 nos. of double burner connection in her house at 47/5, Agamasi Lane, Bongshal, Dhaka. Asgori Begum transferred her land between the two persons. One part of the land in question has been purchased by the petitioner from his mother i.e. Asgori Begum. The schedule of the land of the transferred deed vide Registered Sale Deed being No. 5424 dated 25.07.2013 clearly states that:

“১১. সম্পত্তির তফসিল (প্রয়োজনীয় ক্ষেত্রে অংকে ও কথায়):

জেলা-ঢাকা, থানা-সাবেক কোতয়ালী, হালে-বংশাল ও সদর সাব-রেজিষ্ট্রী অফিস এলাকাধীন ঢাকা কালেক্টরীর তৌজি ভূক্ত, ১ নং ঢাকা মৌজা স্থিত, ৪ নং ওয়ার্ডের ৩৪ নং সিটের এস, এ, ৩৪৮ নং, আর, এস, ৮৩৯৭ নং, ঢাকা সিটি জরীপে ১১৬৫ নং খতিয়ান ভূক্ত ৭৬/৭ নং জোত ভূক্ত। সি, এস, ১৭৪ (একশত চুয়াত্তর) নং দাগ, এস, এ ৬৪০ (ছয়শত চল্লিশ) নং দাগ, আর, এস, ১১২৬ (এক হাজার একশত ছাব্বিশ) নং দাগ, যাহা ঢাকা সিটি জরীপে ৮০৪ (আটশত চার) নং দাগের বাড়ী ভূমি ১ ষোল আনায় ০২৪০ অুতাংশ। ইহার কাতে ০১৩৫ (একশত পঁয়ত্রিশ) ভূমি ও তদস্থিত ৫৮০ (পাঁচশত আশি) বর্গফুটের ১ তলা দালান, সিঁড়ি, গ্যাস, বিদ্যুৎ, পানি, চলাচলের রাস্তা ও সুয়্যারেজ লাইনের স্বত্ব সহ অত্র দলিল দ্বারা সাফ বিক্রীত সম্পত্তি বটে। যাহা ঢাকা দক্ষিণ সিটি কর্পোরেশনের ৪৭/৫ নং আগামাসি লেন হোল্ডিংয়ের অংশ বটে। যাহার বার্ষিক খাজনা কোতয়ালী সার্কেল অধীন আদায় হয়।”

Apart from that the remaining part of the land has been gifted to respondent No. 6 and the schedule of the land mentioned in the Gift Deed being No. 6582 dated 15.10.2015 is as follows:

“১১। বিক্রীত/হস্তান্তরিত সম্পত্তির তফসিলের বিবরণঃ

জেলা-ঢাকা, থানা-সাবেক কোতয়ালী হালে বংশাল, সদর সাব রেজিষ্ট্রী অফিস এলাকাধীন ঢাকা কালেক্টরীর তৌজিভূক্ত মৌজা নং ‘ঢাকা’ স্থিত সাবেক ৪ নং ওয়ার্ডের ৩৪ নং সিটের খতিয়ান নং এস.এ ৩৪৮ (তিনশত আটচল্লিশ), আর.এস ৮৩৯৭ (আটহাজার তিনশত সাতানব্বই), ঢাকা সিটি জরিপ ১১৬৫(এক হাজার একশত পয়ষট্টি) এ লিখিত দাগ নং-সি.এস ১৭৪ (একশত চুয়াত্তর), এস.এ ৬৪০ (ছয়শত চল্লিশ), আ.এস ১১২৬ (এক হাজার একশত ছাব্বিশ), ঢাকা সিটি জরিপ ৮০৪ (আটশত চার), জোত নং ৭৬/৭ এর বাড়ী শ্রেণীর ২৪০ অযুতাংশ ভূমির কাতে ১০৫ (একশত পাঁচ) অযুতাংশ বা ১.০৫ (এক দশমিক শূন্য পাঁচ) শতাংশ ভূমি ও উহার উপর নির্মিত ৪তলা বিশিষ্ট ইমারত এর দক্ষিণ পার্শ্বের অংশে নীচ তলা হইতে ৪র্থ তলা পর্যন্ত সিঁড়ির অংশ সহ প্রতি তলায় ৪৮০ (চারশত আশি) বর্গফুট করিয়া মোট ১৯২০ (এক হাজার নয়শত বিশ) বর্গফুট পরিমিত ফ্ল্যাট ও ছাদ এবং তৎসংশ্লিষ্ট অন্যান্য সকল প্রকার কমন সুযোগ-সুবিধাদি যেমন-ইমারতের সিঁড়ি, মূল রাস্তা হইতে দালানের ভেতরে গমনাগমনের পথ, ওভারহেড পানির ট্যাংক, পানির লাইন, পয়ঃনিষ্কাশন (সুয়্যারেজ) লাইন, বিদ্যুৎ, গ্যাস, মেইন মিটার ইত্যাদিতে যৌথ ব্যবহার করিবার পূর্ণ অধিকার সমূহ সহ অত্র দানকৃত সম্পত্তি বটে। যাহা ঢাকা দক্ষিণ সিটি কর্পোরেশন এর হোল্ডিং নং ৪৭/৫, আগামাসি লেন এর অংশ।”

It is noted that Asgori Begum was the owner of the land, the land owner transferred the land to her daughter and son. She had been using 7 nos. of double burner connection in her house having customer ID No. 1124594 at 47/5, Agamasi Lane, Bongshal, Dhaka. At the time of the transfer of her land, it was mentioned in the schedule of the transferred land about the uses of utilities. Upon reading of the alleged deed and schedule of land, it appears Asgori Begum had the intention, thus she allowed by the transferred deed to use all utility facilities i.e., gas,

electricity, water, and stair jointly, and executed the deed in such a manner.

It is noted that the quantity of land is very small, wherein they built a multistoried building, it has divided into two parts by a narrow stair. Now Petitioner and his sister are the owners of that building including land. The problem has been created amongst them, and to remove such a situation everyone has to sacrifice, otherwise, a quality environment and atmosphere would not be created. However, everyone knows without gas, electricity, and water life would be miserable, and those are basic necessities for a human life. In the absence of any one utility, the life of the person would be difficult to survive. The record shows they were using 7 nos. of double burner connection in the house having customer ID No. 1124594. Thus it is admitted that petitioner and the respondent No. 6 have used such connection from one ID, somehow, the petitioner was disconnected from those facilities. There would be no dispute if both parties followed their respective deed related to the land in question. Therefore, the submission of the petitioner to restore the gas connection has substance.

On that count, for ends of justice, we find justice would be met, if we give a direction to respondent No. 3 to restore the gas connection in its earlier position and or connect the gas from the ID that their mother had, until the disposal of the civil suit pending before the Court below.

Resultantly, the Rule Nisi is made absolute.

The interim order granted at the time of issuance of the Rule is hereby recalled and vacated.

There will be no order as to cost.

Communicate the order.

Md. Akhtaruzzaman, J:

I agree.