

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

Writ Petition No. 3722 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. Nazrul Islam

....Petitioner

Versus

The Government of the People's Republic of
Bangladesh, represented by Secretary
Ministry of Land, Bangladesh, Secretariat,
Shahbag, Dhaka and others

....Respondents

Mr. Mohammad Shishir Manir, Advcoate with
Mr. M. Midul Islam Chunnu, Advocate and
Mr. Md. Akramul Haque, Advcoate, Advocate

....For the Petitioner

Mr. Masud Rana Mohammad Hafiz, Advocate

.... For the respondent No.5

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice S M Saiful Islam

Judgment on 10.06.2026.

Md. Iqbal Kabir, J:

This Rule Nisi was issued calling upon the respondents to show cause as to why the order dated 17.11.2013 in Arpita Sampatti Pratarpan Case No. 81 of 2012 and the order dated 22.01.2015 in Arpita Appeal No. 15 of 2014 passed by the appellate authority should not be declared to have been passed without lawful authority and is of no legal effect and action dated 16.02.2022 taken by the respondents destroying the Semipaka house deep and the house of the cutlets the tress in the house having being protected by the boundary wall 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.

However, at the time of issuance of the Rule, this Court passed an interim order in the following manner:

“Pending hearing of the Rule, let the operation of the order dated 17.11.2013 in Arpita Sampatti Pratarpan Case No. 81 of 2012 and the order dated 22.01.2015 in Arpita Appeal No. 15 of 2014 be stayed and the parties are directed to maintain status quo in respect of possession and position of the suit property for a period of 6 (six) months from date.”

Short facts narrated in this application are that father of the petitioner is a former MLSS who, took possession of the suit land as a homeless person in 1951. The petitioner claims that since 1987-1988, he and his brother have been regularly paying lease money to the government, Respondent No. 2. According to him R.S. records reflect their possession. The petitioner contends he has lived on the premises for over 70 years and has maintained a cattle house and family living quarters there. Therefore against the initiative for its dispossession being aggrieved filed this writ petition.

Mr. M. Midul Islam Chunnu, learned Advocate for the petitioner, submits that the petitioner's father had been in possession of the scheduled land for over seventy years, during which neither the respondents nor any governmental authority asserted any claim over the property. On that basis, the petitioner claims possessory rights and asserts that he had been enjoying peaceful possession of the land.

He further submits that, without serving any lawful notice or following due process of law, the respondents unlawfully tried to demolish the petitioner's dwelling house on 16.01.2022 and dispossessed him partly from the scheduled land. Accordingly, the petitioner seeks restoration of possession and reconstruction of the demolished house.

He claims that the judgment of the Arpita Sampatti Tribunal was passed on an erroneous appreciation of facts and law, and respondent No. 5 failed to establish any valid title through his alleged predecessor-in-interest. As such, the impugned judgment is liable to be declared to have been passed without lawful authority and to be of no legal effect.

It is further submitted that the petitioner had already challenged the judgments of the Tribunal and the appellate court before the competent forum. Despite having knowledge of such pending proceedings, the respondents allegedly acted arbitrarily and unlawfully in demolishing the petitioner's house and evicting him from the land. Since the respondents had no order, decree, or authorization from any competent court

permitting such eviction or demolition, their actions are liable to be declared unlawful and without legal effect.

Mr. Masud Rana Mohammad Hafiz, learned Advocate appearing on behalf of the Respondent No. 5 entered his appurtenance and contested the Rule by filing an Affidavit-in-Opposition, asserting that they are the lawful owner and decree-holder of the property. Their claim was successfully litigated before the specialized Arpita Sampatti Pratarpan Tribunal and the Appellate Tribunal, which are the final authorities on facts under the Arpita Sampatti Pratarpan Act, 2001.

Mr. Hafiz, learned Advocate submits that the petitioner has approached this Court by suppressing the material fact that the petitioner failed to disclose that a Civil Suit relates with the same subject matter is pending in the Civil Court, According to him the petitioner is attempting to litigate the same issue in two different forums simultaneously, which is a gross abuse of the process of the Court.

He next submits that the petitioner has challenged the judgments and orders passed in 2013 and 2015 only in the year 2022, after an unexplained delay of about 7 to 9 years. No satisfactory explanation has been offered for such prolonged inaction. Accordingly, the writ petition is liable to be rejected on the ground of delay and laches.

He brought notice that the petitioner is an admitted yearly leaseholder and, therefore, cannot legally claim title by adverse possession against property vested in the Government. According to him, adverse possession cannot be claimed against property vested in the Government under the Arpita Sampatti Act, as the petitioner is in an admitted position as a yearly lease holder, and he has no locus standi to the instant writ petition. Moreover, the claim involves disputed and complex questions relating to title and possession, which require adjudication on evidence and are not amenable to determination in writ jurisdiction. Consequently, the petitioner lacks any enforceable legal right warranting interference by this Court.

Having heard the learned Advocate for the parties and having gone through the writ petition and other relevant documents as placed before us, it is revealed that the petitioner is indeed a lessee of the land. The petitioner is a mere unauthorized occupant whose claims were previously rejected through the legal process. Further, from the submission, it appears that presently he does not possess the land in question.

Therefore, the continuation of the status quo order would cause irreparable loss and injury to Respondent No. 5, who is being deprived of the fruits of a decade-long legal battle.

Given the suppression of the pending civil suit, the unexplained delay in filing this petition, and the petitioner's lack of a valid title, this Court finds no merit in the Rule.

Accordingly, the Rule is discharged.

The interim order of stay and status-quo both granted at the time of the issuance of the Rule are hereby vacated.

There will be no order as to costs.

Communicate this order at once.

S M Saiful Islam, J:
I agree.