

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

Writ Petition No. 654 of 2021.

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Road and Highways Department, represented by
its Chief Engineer, Roads and Highways
Department.

...Petitioner

-V E R S U S-

The Judge, Land Survey Tribunal, Dhaka
Metropolitan, Dhaka and others.

.....Respondents

Mr. S.M. Zahurul Islam, Advocate

.....For the petitioner

Mr. Mohammad Mashiur Rahman, Advocate

.... For the respondents

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: 16.11.2023.

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
28.02.2022, in the following terms:

*“Let a Rule Nisi be issued calling upon the
respondents to show cause as to why the impugned
Judgment and decree dated 30.01.2018 (decree signed
on 04.02.2018) passed by the learned Judge, Land
Survey Tribunal, Dhaka in Land Survey Tribunal Suit
No.85 of 2007 decreeing the suit ex-parte (Annexure-A
and A-1) 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, Dhaka and as such, the Rule issued by this Court has become infructuous.

In the result, the Rule is discharged without any order as to costs. The petitioner is at liberty to prefer appeal within 03(three) months from date, if any, before the Land Survey Appellate Tribunal, Dhaka and in preferring such appeal delay occurred, if any, shall be condoned.

In the meantime, the order of *stay and status quo* 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.

Communicate the judgment and order at once.

Khizir Hayat, J:

I agree.