

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

Writ Petition No. 4550 of 2023.

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Sheikh Abdul Karim

...Petitioner

-V E R S U S-

The learned Judge, Land Survey Tribunal, Khulna and others.

.....Respondents

Mr. Sk. Tahsin Ali, Advocate

... .. For the petitioner

Mr. Sk. Shaifuzzaman, DAG with

Ms. Rehana Sultana, AAG and

Mr. Md. Samiul Alam Sarkar, 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: 17.01.023.

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 21.05.2023, in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the proceedings of Land Survey Tribunal Case No.43 of 2015, now pending before the learned Judge, Land Survey Tribunal, Khulna rejecting the application for stay dated 14.03.2023 filed by the petitioner before the Land Survey Tribunal, Khulna and Order No.39 dated 30.01.2023 and order No.40 dated 31.01.2023 and Order No.41 dated 20.03.2023 respectively passed by the learned Judge (Joint District and Sessions Judge), Land Survey Tribunal Khulna in Land Survey Tribunal Case No.43 of 2015 vacating the order of stay and fixing date for hearing on 20.03.2023 should not be declared illegal 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/her grievance by filing appeal, before the respective Land Survey Appellate Tribunal of the respective districts 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, Khulna and as such, the Rule issued by this Court has become infructuous.

In the result, the Rule is disposed of with direction. The petitioner is at liberty to prefer appeal within 03(three) months from date, if any,

before the Land Survey Appellate Tribunal and in preferring such appeal delay occurred, if any, shall be condoned.

In the meantime, the order of *stay* granted at the time of issuance of the Rule shall continue till filing of the appeal before the Land Survey Appellate Tribunal or 03(three) months from the date of receipt of this order, whichever is earlier.

The learned Advocate for the petitioner is permitted to take back the certified copies of the annexures, if any, by substituting the Photostat copy of the same.

There will be no order as to costs.

Send down the Lower Court's Records and communicate the judgment and order to the respective parties.

Khizir Hayat, J:

I agree.