

IN THE SUPREME COURT OF BANGLADESH

HIGH COURT DIVISION

(CIVIL REVISIONAL JURISDICTION)

**Civil Revision No. 4030 of 2023**

**In the matter of:**

An Application under section 115(1) of the Code of Civil Procedure, 1908

**And**

**In the matter of:**

Rupayan Housing Estate Limited.

...Petitioner.

-Vs-

Mostafa Kamal Wahid and another.

...Opposite parties.

Mr. Pronay Kanti Roy, Adv.

...For the petitioner.

Mr. Md. Mozammel Haque, Adv.

...For the opposite party No. 1.

**The 20<sup>th</sup> February, 2024**

**Present**  
Mr. Justice Mamnoon Rahman

Today is fixed for passing necessary order.

In an application under section 115(1) of the Code of Civil Procedure, 1908 rule was issued calling upon the opposite party No. 1 to show cause as to why the judgment and order No. 7 dated 13.07.2023 passed by the learned Senior District Judge, Dhaka in Arbitration Miscellaneous Case No. 267 of 2023 allowing the application and appointing the District and Sessions Judge (Retd.) on behalf of the opposite party should not be set aside and/or such other or further order or orders passed as to this court may seem fit and proper.

The learned Advocate Mr. Mozammel Haque appearing on behalf of the opposite party No. 1 submits that he has no objection if the court be appointed an Arbitrator on behalf of the present petitioner instead of the Arbitrator appointed by the trial court.

I have heard the learned Advocate for the petitioner as well as opposite party and perused the materials on record.

On perusal of the same, it transpires that on an application under section 12 of the Arbitration Act, 2001 the trial court appointed two Arbitrators, namely Golam Mortuja Majumder, District and Sessions Judge (Retd.) as proposed by the opposite party and since no one appeared on behalf of the present petitioner the trial court has appointed Ms. Tanjina Islam, District and Sessions Judge (Retd.).

Since the opposite party has no objection, I am of the view that justice would be done if Mr. Md. Nazir Ahmed, Senior District and Sessions Judge (Retd.) presently an Advocate of Bangladesh Supreme Court (Mobile No. 01712-628964) be appointed as an Arbitrator on behalf of the present petitioner instead of Ms. Tanjina Islam, District and Sessions Judge (Retd.).

Accordingly, the impugned judgment and order dated 13.07.2023 is being modified in the following manner;

*Mr. Golam Mortuja Majumder, District and Sessions Judge (Retd.) and Mr. Md. Nazir Ahmed, Senior District and Sessions Judge (Retd.) will act as an Arbitrator. Both the Arbitrators are directed to proceed with the Arbitration Miscellaneous case in accordance with law.*

With this observation and direction the instant rule is disposed of.

Communicate the judgment and order to the concerned Arbitrators with a copy of the judgment at cone.

(Mamnoon Rahman,J:)