

**District: Dhaka**

**In the Supreme Court of Bangladesh**  
High Court Division  
(Civil Revisional Jurisdiction)

**Present**

**Mr. Justice Md. Zakir Hossain**

**Civil Revision No. 3841 of 2023**

Tawfeer Al Makka Samobay Samity Limited  
represented by its General Secretary, Md.  
Selim Hossain Khan

..... Opposite Party-Petitioner

-Versus-

Ashkan Developments Limited represented by  
its Chairman, Abu Sayem Khaled

.....Applicant-Opposite Party

Mr. Md. Abul Kasem, Advocate

..... For the petitioner

Mr. Fockrul Bahar Shaki, Advocate

..... For the opposite party

**Heard on: 25.02.2024 & 03.03.2024**

**Judgment on: 02.06.2024**

At the instance of the petitioner, the Rule was issued by this Court  
with the following terms:

*“Records of the case need not be called for  
Let a Rule be issued calling upon the opposite  
party 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. 500 of 2022  
allowing the application filed by the opposite  
party under section 12 of সালিশি আইন, ২০০১ beyond  
the scope of section 36 of রিয়েল এস্টেট উন্নয়ন ও  
ব্যবস্থাপনা আইন, ২০১০ shall not be set aside and/or*

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

Facts leading to the issuance of the Rule are *inter alia* that on 14.10.2022, the opposite party being applicant filed Arbitration Miscellaneous Case No. 500 of 2022 before the Court of the learned District Judge, Dhaka under Section 12 of the Arbitration Act, 2001 with the following prayer:

“সেমতে উপরোক্ত বিষয় ও অবস্থায় প্রেক্ষিতে ন্যায় বিচারের স্বার্থে বিগত ০২/০১/২০১১, ০৩/০১/২০১১ ও ১৮/০৭/২০১৮ ইং তারিখের চুক্তির সালিশী অনুচ্ছেদের আলোকে রিয়েল এস্টেট আইন ৯ ধারার ২ উপধারা অনুসরণে ট্রাইব্যুনাল গঠনকরতঃ এওয়ার্ড প্রদানের নিমিত্তে এক প্রয়োজনীয় আদেশ প্রদানে মর্জি হয়।”

The petitioner entered appearance in the aforesaid Miscellaneous Case and by filing a written objection denied the material allegation set forth in the application of the aforesaid Miscellaneous Case and thereafter, on 05.02.2023, the opposite party filed a petition for proposing the name of two advocates of the Supreme Court of Bangladesh for appointing them as arbitrators. On 13.07.2023, the learned District Judge allowed the application and appointed two arbitrators. In the above backdrop, the petitioner was constrained to move this Court and obtained the aforesaid Rule and stay therewith.

Heard the submissions advanced by the learned Advocates of the petitioner and the opposite party at length and perused the materials on record with due care and attention and seriousness as they deserve. The

convoluted question of law embroiled in this case has meticulously been waded through.

The learned Advocate for the petitioner submits that on the basis of the application of the opposite party, the learned District Judge appointed two arbitrators without giving the instant petitioner an opportunity to propose the name of an arbitrator on his behalf and as such, the learned District Judge committed gross illegality in his order resulting an error in his decision occasioning failure of justice. The penultimate submission of the learned Advocate for the petitioners is that if Dr. Md. Shahjahan, the learned Advocate of the High Court Division, Supreme Court of Bangladesh and Former Senior District and Sessions Judge, Chamber-39, Kakrail, Bijoy Nagar, Suit#A-11, Dhaka; 185, Shhahid Syed Nazrul Islam Soroni, Mobile: 01715099846 is appointed an Arbitrator on behalf of the instant petitioner instead of Kazi Shaheena Nigar, Former Senior District and Sessions Judge, 17/2(Ka), Tollabag, Amtala, Sobhanbag, Dhaka, Mobile: 01711843629, the petitioner shall have no objection. The learned Advocate for the opposite party has conceded the submission of the learned Advocate for the petitioner.

Having regard to the facts and circumstances of the case, I find substance in the submissions of the learned Advocate for the petitioner and accordingly, Dr. Md. Shahjahan, the learned Advocate of the High Court Division, Supreme Court of Bangladesh and Former Senior District and Sessions Judge, Chamber-39, Kakrail, Bijoy Nagar, Suit#A-

11, Dhaka; 185, Shhahid Syed Nazrul Islam Soroni, Mobile: 01715099846 is appointed as arbitrator on behalf of the petitioner and the opposite party of the aforesaid Arbitration Miscellaneous Case No. 500 of 2022 instead of Kazi Shaheena Nigar, Former Senior District and Sessions Judge, 17/2(Ka), Tollabag, Amtala, Sobhanbag, Dhaka, Mobile: 01711843629 and thus, the order of the learned District Judge, Dhaka dated 13.07.2023 passed in Arbitration Miscellaneous Case No. 500 of 2022 is hereby modified and the other terms and conditions of the judgment shall remain valid.

With the above observation, the Rule is disposed of, however, without passing any order as to costs. The earlier order of stay granted by this Court, thus, stands recalled and vacated.

Let a copy of the judgment be transmitted to the Court below at once for taking necessary step.

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**Md. Zakir Hossain, J**

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