

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

Writ Petition No. 10039 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:

Indu Bhusan Bhowmik and others

.....Petitioners

-V E R S U S-

The Land Survey Tribunal, Brahmanbaria and
others.

.....Respondents

Mr. Mohamed Abul Kashem Bhuiyan, Advocate

.....For the petitioners

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: 09.05.2024.

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
20.08.2023, in the following terms:

*“Let a Rule Nisi be issued calling upon the
respondents show cause as to why the order No. 48
dated 11.06.2023 passed by the Judge Land Survey
Tribunal, Brahmanbaria in Land Survey Tribunal
Case No. 49 of 2018 allowing the application of the
plaintiff for recalling the DW-1 for further cross
examination (Annexure-E) 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 petitioners have failed to redress their 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 petitioners of the writ petition may redress their 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 petitioners may redress their grievance by filing appeal, before the Land Survey Appellate Tribunal, Brahmanbaria and as such, the Rule issued by this Court has become infructuous.

In the result, the Rule is disposed of with direction. The petitioners are at liberty to prefer appeal within 03(three) months from date, if any, before the Land Survey Appellate Tribunal, Brahmanbaria 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 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.

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

There will be no order as to costs.

Communicate the judgment and order to the petitioner and the respondents at once.

Khizir Hayat, J:

I agree.