

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

Present:

**Mr. Justice S. M. Saiful Islam**

**Civil Revision No. 661 of 2024**

IN THE MATTER OF:

An application under section 115(1) of the  
Code of Civil Procedure. (Against Order)

And

IN THE MATTER OF:

Md. Muzammel Khan and others.

---- Applicant-Appellant-Petitioners.

-Versus-

Putul Rani Devnath and others.

---- Defendant-Respondent-Opposite Parties.

Mr. Md. Shameem Khaled with

Mr. Azizul Hoque Howlader, Advocate

---- For the Petitioners.

Mr. Mohammad Al-Amin with

Mr. Mir Mohammad Joynal Abedin and

Mr. Md. Zaheed Salam, Advocates

--- For the Opposite Party Nos. 1-4.

Mrs. Ainun Naher, DAG

---- For the State (OP No. 5).

**Heard On: 20.01.2026, 10.02.2026,**

**17.02.2026 and 25.02.2026.**

**Date of Judgment: 02.03.2026.**

**S. M. Saiful Islam, J.**

This Rule was issued upon an application under section 115(1) of the Code of Civil Procedure 1908, calling upon the opposite parties to show cause as to why the impugned order dated 15.10.2023 passed by the learned Additional District Judge, 2<sup>nd</sup> Court, Barishal in Arpito Miscellaneous Appeal No. 47 of 2023 dismissing the appeal and thereby affirming the order dated 13.06.2022 passed by the learned Joint District Judge, 3<sup>rd</sup> Court and Arpito Sampatti Prattarpan Tribunal No. 3, Barishal in Arpito Sampatti Prattarpan Suit No. 1293 of 2012 rejecting the application of petitioner for addition of parties 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 relevant for the disposal of this Rule is that the opposite party nos. 1-4 as plaintiffs filed an application in the Arpito Sampatti Prattarpan Tribunal for releasing .41 acres of land from the list of the vested property. That application was numbered as Arpito Suit No. 1293 of 2012. On the other hand, petitioners' father as the plaintiff filed another application before the Arpito Sampatti Prattarpan Tribunal for releasing .82 acres of land including the suit land of Arpito Suit No. 1293/2012 from the list of vested property and that application was numbered as Arpito Tribunal Suit No. 1487 of 2012. The petitioners as applicants filed an application in Arpito Suit No. 1293/2012 for

being added as defendants contending that they are possessing .82 acres of land including the suit land by erecting houses and establishing graveyard. They also contended that the plaintiffs of that suit already filed two suits respecting the suit land but they lost in those suits. Thus the petitioners prayed for adding them as defendants for proper adjudication of the case.

Upon hearing the application for addition of party, learned Tribunal rejected the application. Being aggrieved from that order, the petitioners preferred Miscellaneous Appeal No. 47 of 2022 before the learned District Judge, Barishal. That appeal on transfer was heard by the learned Additional District Judge, 2<sup>nd</sup> Court, Barishal who upon hearing dismissed the appeal by the impugned judgment and order dated 15.10.2023. Against that impugned judgment and order, petitioners filed this revisional application and obtained the Rule.

At the time of issuance of the Rule further proceedings of Arpito Sampatti Prattarpan Suit No. 1293/2012 was stayed for a period of 3 (three) months and lastly it was extended on 14.05.2025 for a period of 1 (one) year.

Learned Advocate Mr. Md. Shameem Khaled, appearing on behalf of the petitioners, submits that the petitioners' presence is necessary for complete and effectual determination and disposal of the suit. The petitioners have interest in the subject

matter of the suit and as such they should be allowed to contest the suit. He further submits that the Courts below committed an error of law in rejecting the application of the petitioners which occasioned failure of justice. He also submits that both the Courts below failed to consider that Order 1 Rule 10(2) of the Code of Civil Procedure, 1908 has given ample power to the Court to add or strike out the name of the plaintiff or the defendant if necessary. He further submits that the petitioners are possessing the suit land of Arpito Tribunal Suit No. 1293/2012 and if they are not made parties, they will not be able to file written statement and to adduce evidence and to cross-examine the witnesses which will lead to miscarriage of justice. For these reasons learned Advocate for the petitioners prayed for making the Rule absolute by setting aside the impugned judgment and order. In support of his contention learned Advocate for the petitioners referred to a judgment passed by the High Court Division in Civil Revision No. 2874 of 2015 [unreported].

On the other hand, learned Advocate Mr. Mohammad Al-Amin, appearing on behalf of the opposite parties submits that the learned Court below has rightly rejected the application for addition of party. He asserts that, in the Arpito Sampatti Prattarpan Ain, there is no such scope for addition of party. According to the provisions of that law, only Deputy

Commissioner is the necessary party. He also submits that the Tribunal has decided to try both the Arpito Tribunal Suit (Suit No. 1293/2012 and 1487/2012) filed by the petitioners and the opposite parties simultaneously and in that case the petitioners will get the chance to put their claim side by side with the opposite party. He finally submits that there is no error of law in the impugned judgment and order. For these reasons, learned Advocate for the opposite parties prays for discharge of the Rule.

I have heard the learned Advocates appearing for both the parties and perused the Revisional application along with the annexures appended thereto.

The only question to be decided in this Rule is whether a person, other than the Deputy Commissioner of the concerned district, can be added as a defendant or opposite party in a suit before the Arpito Sampatti Prattarpan Tribunal. In the impugned order, learned Appellate Court affirming the order of the Tribunal, held that under section 10(6)(Kha)(Ga) of the Arpito Sampatti Prattarpan Ain, 2001, only the Deputy Commissioner would be the opposite party in Arpito Sampatti Prattarpan Tribunal Suit and no other individuals can be added as an opposite party in such a suit. To resolve the above question raised in this Rule, it is necessary to examine the relevant provisions of the said Act.

It may be mentioned here that Arpito Sampatti Prattarpan Ain, 2001 is a special law which provides for establishment of Arpito Sampatti Prattarpan Tribunal to return the vested properties to the rightful owners or their successors in interest. This law prescribes a special procedure for dealing with the applications filed before the Tribunal. Section 4 of this Act provides that except section 11 of the Code of Civil Procedure, other provisions of that Code shall not be applicable in the proceedings under the Arpito Sampatti Prattarpan Ain, unless such provision of the Code is specifically made applicable by this Act. The provision of section 4 of Arpito Sampatti Prattarpan Ain, 2001 reads as follows:

”৪। এই আইনের অধীন কোনো কার্যধারায় দেওয়ানী কার্যবিধির নিম্নবর্ণিত বিধানাবলী ব্যতীত অন্য কোনো বিধান প্রযোজ্য হইবেনা, যথা:-  
 (ক) এই আইনে বা বিধিতে কোনো বিষয়ে দেওয়ানী কার্যবিধির কোনো বিধান যতটুকু প্রযোজ্য মর্মে বিধান করা হয় ততটুকু; এবং  
 (খ) উক্ত কার্যবিধির ১১ ধারা।”

Thus it appears from the above mentioned provisions, that the provisions of Order 1 Rule 10(2) of the Code of Civil Procedure for addition of party do not apply to the Arpito Sampatti Prattarpan Tribunal Suits.

Section 10(6) of the Arpito Sampatti Prattarpan Ain, 2001, provides as follow:

“ ১০।

(৬) এই ধারার অধীনে আবেদন প্রাপ্তির পর ট্রাইব্যুনাল-

(খ) আবেদনটি গ্রহণযোগ্য হইলে সরকারের পক্ষে সংশ্লিষ্ট জেলার জেলা প্রশাসককে নোটিশ দিবে;

(গ) উপস্থাপিত আবেদন বা আবেদনসমূহ (যদি থাকে) ও সরকারের কোনো বক্তব্য থাকিলে তৎসম্পর্কে উভয়পক্ষকে শুনানীর সুযোগ দিবে;”

Thus according to the provisions of section 10(6)(Kha) (Ga), the Tribunal shall give notice only to the Deputy Commissioner as opposite party and not to any other party. It is also provided here that the Tribunal can hear only the applicants and the Government and no other individual opposite party. Section 10(8) also contains the similar provision-

“ ১০।

(৮) ট্রাইব্যুনালের রায় লিখিত হইবে এবং উহাতে নিম্নবর্ণিত বিষয়াদি থাকিবে:-

(ক) আবেদনকারী বা আবেদনকারীগণ (যদি থাকে) এর দাবী এবং সরকারের বক্তব্য, যদি থাকে, এর সংক্ষিপ্ত বর্ণনা;”

Thus according to the above mentioned provisions, the Tribunal in its judgment can discuss only the case of the applicants and the government and not the case of any third party.

Finally, section 17 (Gha) provides specific procedure for the Tribunal to deal with the situation when there are more than one applicant or claimant regarding the same property. Section

17 (Gha) of the Arpito Sampatti Prattarpan Ain, 2001 provides as follows:

“১৭। ট্রাইবুনাল-

.....

(ঘ) উক্ত তালিকায় অন্তর্ভুক্ত কোনো সম্পত্তির ব্যাপারে একাধিক ব্যক্তি আবেদন করিলে এইরূপ আবেদন একযোগে শুনানী করিবে এবং প্রয়োজনবোধে একটি রায়ের মাধ্যমে উহাদিগকে নিষ্পত্তি করিতে পারিবে।”

Thus according to the provisions of section 17(Gha), when there are more than one applicant respecting the same property, the Tribunal shall hear all the applicants simultaneously and in such a case one applicant has no scope to be added as the opposite party in the application of the other applicants. On perusal of the impugned judgment and order it appears that the Tribunal has decided to hear both the suits filed by the petitioner and the opposite party of this civil revision simultaneously. It has been mentioned in the impugned judgment and order,

“অধিকন্তু ০৩/০২/২০২১ খ্রি: তারিখের ৪৩ নং আদেশ পর্যালোচনায় আরো দেখা যায় যে, অর্পিত ১২৯৩/২০১২ নং মোকদমার দরখাস্তকারী পক্ষের আবেদনের প্রেক্ষিতে প্রতিপক্ষ শ্রেণীভুক্তির দরখাস্তকারীগণ কর্তৃক দায়েরকৃত অর্পিত ১৪৮৭/২০১২ নং মোকদমাটি অর্পিত ১২৯৩/২০১২ নং মোকদমার পাশাপাশি চলবে মর্মে আদেশ প্রদান করা হয়েছে। সেক্ষেত্রে উভয় মোকদমা পাশাপাশি বিচার অন্তে নিষ্পত্তি হলে নালিশী জমি সংক্রান্তে সমুদয় তথ্য আদালতের সম্মুখে আসার অবকাশ থেকে যায় এবং ফলশ্রুতিতে বিচার বিভ্রাটজনিত

জটিলতা সৃষ্টির কোনো সম্ভাবনা থাকেনা। এক্ষেত্রে প্রতিপক্ষ শ্রেণীভুক্তির  
দরখাস্তকারীগণের ক্ষতিগ্রস্ত হওয়ার কোনো সম্ভাবনা পরিলক্ষিত হয়না।”

On perusal of the foregoing provisions of the Arpito Sampatti Prattarpan Ain, 2001 and in view of the discussions made above, I am of the opinion that the petitioners have no scope to be added as opposite party in the Arpito Tribunal Suit No. 1293/2012 filed by the present opposite parties because according to the provisions of section 10 (6) (Kha) (Ga), 10 (8) (Ka) only Deputy Commissioner on behalf of Government shall be the opposite party in Arpito Sampatti Tribunal Suit. Where there are more than one claimant respecting the same property, all of them shall be applicant in the Tribunal and in that case Tribunal shall hear and dispose of all the applications simultaneously. Learned Tribunal has rightly decided to hear both the suits (1293/2012 and 1487/2012) simultaneously and in that case the Tribunal will be able to consider both the cases of the petitioner and opposite party and in such a case, the petitioner has no possibility of being prejudiced. Learned Advocate for the petitioner referred to a judgment passed by the High Court Division in Civil Revision 2874 of 2015 [unreported] where the application for such addition of party was allowed. But in that case, petitioner himself did not file any suit before the Arpito Sampatti Prattarpan Tribunal. In the instant case, petitioners

themselves have filed a suit before the Arpito Sampatti Prattarpan Tribunal which, the Tribunal has decided to hear simultaneously with the suit filed by present the opposite parties. So, the instant case differs from the case referred to in its facts and circumstances.

Considering the facts and circumstances and in view of the discussions made above, I am of the opinion, that learned Additional District Judge has rightly disallowed the Appeal by the impugned judgment and order. Learned Appellate Court has not committed any error of law in the impugned judgment and order and it does not suffer from any legal infirmity, illegality or impropriety and it has not occasioned any failure of justice. Therefore, it does not call for any interference.

In the facts and circumstances, I find no merit in the Rule. So, the Rule is liable to be discharged.

In the result, the Rule is discharged without any order as to costs.

Order of stay passed earlier by this Court is hereby vacated.

Communicate a copy this judgment and order to the concerned court below at once.