

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

WRIT PETITION NO. 9449 OF 2007

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Abdul Motaleb and others

... Petitioners.

-VERSUS-

The Government of the People's Republic
of Bangladesh and others.

... Respondents.

Mr. Amit Talukder alongwith

Mr. Md. Reza-E-Murshed Kamal,
Advocates

... For the petitioner.

Mr. M.G. Mahmud (Shaheen), Advocate

... For the respondent Nos. 7-17.

Heard and Judgment on: 04.11.2025

Present:

Mr. Justice Md. Khairul Alam

&

Mr. Justice Aziz Ahmed Bhuiyan

Md. Khairul Alam, J:

By filing this writ petition, under Article 102 of the Constitution of the People's Republic of Bangladesh, the petitioners have called in question the legality and propriety of the judgment and decree dated 29.08.2007 passed by the learned Judge, Land Survey Tribunal, (Joint District Judge) Dhaka Metropolitan, Dhaka in Land Survey Tribunal Suit No. 325 of 2006.

The sole contention of the petitioners are that, since the appellate forum, namely the Land Survey Appellate Tribunal, had not been established at the time of filing this writ petition, there was no forum available for them to file an appeal against the impugned judgment and decree; therefore, invocation of the writ jurisdiction of this Court was their only efficacious remedy.

Heard the learned Advocates for the contending parties, perused the writ petition along with its annexures, and other materials on record placed before us.

Upon consideration, it appears that certain factual issues are involved in the impugned judgment, and the Land Survey Appellate Tribunal is the appropriate forum to adjudicate those issues. It further appears that, at the time of filing this writ petition, no such Appellate Tribunal had been constituted. Subsequently, during the pendency of the Rule, the Government established the Land Survey Appellate Tribunal. However, due to the pendency of this Rule, the petitioners could not prefer an appeal before the said Tribunal, and by this time, the statutory period for filing such an appeal has already elapsed.

The issue involved in this writ petition is no longer *res integra*, as in several writ petitions under similar circumstances, specifically writ petition Nos. 4631 of 2022, 2774 of 2023, and 10567 of 2023, various Benches of this Division have been pleased to direct the Land Survey Appellate Tribunal to admit the appeals, if filed, and to dispose of them in accordance with law.

In view of the above circumstances, we are of the opinion that the ends of justice would be best served if the Rule is disposed of without entering into the merits of the case, but with certain directions enabling the petitioners to pursue his remedy before the competent appellate forum.

Accordingly, the Rule is disposed of with the following directions:

- (i) The petitioners shall be at liberty to file an appeal before the competent Land Survey Appellate Tribunal having jurisdiction over the matter;
- (ii) If the petitioners intends to prefer such an appeal, they shall file the same within 90 (ninety) days from the date of receipt of a copy of this judgment and order, and if such appeal is filed within the aforesaid period, the concerned Land Survey Appellate Tribunal shall admit the appeal and dispose of the same in accordance with law;
- (iii) The petitioners are at liberty to take back all the original certified copies annexed with the writ petition on furnishing photocopies thereof, duly attested by the learned Advocate.
- (iv) The operation of the impugned judgment decree shall remain stayed until the filing of such appeal by the instant petitioners within the period set out in the direction No. (ii); and

- (v) The parties are directed to maintain the status quo in respect of position and possession of the land in question until the filing of the appeal.

However, there shall be no order as to costs.

Communicate the judgment and order at once.

Aziz Ahmed Bhuiyan, J:

I agree.