

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
Writ Petition No. 1855 of 2024.

IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Professor Iqbal Ahmed and others
.....Petitioners

-Versus-

Government of Bangladesh represented by the
Deputy Commissioner, Narsingdi cum Custodian
of Orpito Sampatti, Narsingdi.

.....Respondent

Ms. Rani Akhter, Advocate

.....For the petitioners

Mr. Akhtar Hossain Md. Abdul Wahab, DAG with
Mr. Sultan Mahmood Banna, DAG with
Ms. Khandaker Asma Hamid, AAG with
Mr. S.M. Emamul Musfiqur, AAG with
Mr. Md. Mashiur Rahman (Riad), AAG with
Mr. Md. Mehebab Hossain, AAG

..... For the respondent

Present

Justice Fatema Najib

And

Justice A.F.M. Saiful Karim

Heard on 14.01.2026, 18.02.2026 & 25.02.2026.
Judgment on 09.03.2026.

A.F.M. Saiful Karim , J:

On an application under Article 102 of the Constitution of the
People's Republic of Bangladesh a Rule Nisi was issued on
18.02.2024 in following terms:-

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the respondent should not be directed to release the property of the petitioners from the ‘Ka’ list of Arpito Sampatti published in Bangladesh Gazette dated 16.04.2012 at serial no. 21 (Annexure-D) measuring 1.305 acres of land situated under Mouza- Harordiar, Upazilla- Monohardi, District- Narsingdi, C.S. Khatian No. 76, S.A. Khatian No. 98, R.S. Khatian Nos. 235 and 258, C.S. and S.A. plot Nos. 776,792,795 and 795 R.S. Plot Nos. 1615, 1672, 1678, 1682 and/or pas such other or further order or orders as to this Court may seem fit and proper.”

The facts necessary for disposal of the Rule in brief, are that, 11.63 acres of land was belonged to Felu Mistry and was recorded in his name in C.S. Khatian Nos. 76 and 71 and after his death his four sons namely Narendra, Jogesh, Panchananda and Premananda became owners of $1.93 \frac{5}{6}$ acres each and they paid Union Parishad taxes.

That during S.A. survey the land was recorded in the names of aforesaid four sons of late Felu Mistry in S.A. Khatian No. 98; that Panchananda son of late Felu Mistry died unmarried leaving behind three full brothers-Narendra, Jogesh and Premananda and they got an

area of $2.58 \frac{4}{9}$ acres land each in their share. Thereafter a partition was held among three brothers mutually vide Deed No. 725 dated 25.01.1962 and possessed their respective shares; that Narendra Chandra Sutradhar, son of late Felu Chandra Roy @ Felu Mistry sold an area of .06 acres from CS Khatian No. 76, C.S. Plot No. 776, (Corresponding S.A Khatian No.98, SA Plot NO.776, R.S Khatian No.235, R.S Plot No-1615) to Alauddin Ahmed (the father of the petitioners) by registered Saf Kabala Deed No. 10903 dated 26.12.1969 and delivered possession thereon on the very day of sale; that Premananda (son of late Felu Chandra Roy @ Felu Mistry) sold 0.35 acres of land from C.S Khatian No.71, C.S. Plot No. 792, (Corresponding SA Khatian No.98, SA Plot No.792, R.S Khatian No.235, RS Plot No. 1678) and $0.17 \frac{1}{2}$ acres of land from C.S Khtain No.71, C.S. Plot No. 795 (Corresponding SA Khatian No.98, SA Plot No.795, R.S Khatian No.258, RS Plot No.1682), and 0.36 acres of land from C.S Khatian No.76, C.S Plot No. 795 (Corresponding SA Khatian No.98, SA Plot No.795, R.S Khatian No.235 RS Plot No.1672), to the said Alauddin Ahmed vide Registered Saf Kabala Deed No.6061 dated 27.06.62. In this way Alauddin Ahmed became owner of land in question and mutated his name in the concern Tahshil Office. That after the death of Alauddin Ahmed, the petitioners as his heirs have been possessing the land in question on

payment of rent till 1420 B.S without any hindrance from any quarter.

That the said property was listed as vested property in 'Ka' list published on 16.04.2012 as serial No. 21 and the petitioners became learn to know about the list on 06.12.2023 when they went to pay the rent and the authority refused to accept the rent alleging the land in question was included in 'Ka' list. Then the petitioner No.2 filed applications on 06.12.2023 and 21.12.2023 to accept the rent but in vain.

Hence the petitioners filed the instant writ petition and obtained Rule.

The learned Deputy Attorney General appears for the respondent without filing any affidavit-in-opposition.

At the very outset, Ms. Rani Akhter, learned Advocate appearing for the petitioners submits that since the petitioners were not aware about the enlistment of the property in 'Ka' list, they failed to file Miscellaneous Case before the statutory tribunal below within the stipulated time and as their title became clouded by the 'Ka' list. Since they could not file case against the inclusion of the property in question in Orpito Sampatti list praying for release the same before the Orpito Sampatti Pottorpon Tribunal and finding no other alternative to protect their right, title, possession and interest of the property in question the petitioners have filed this Writ Petition

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

She taking us through the union parishad taxes and voter list of 1973 (Annexures-A, A-1, A-2 and A-3 to the writ petition), the purchase deeds and CS, RS and SA khatian (Annexures-B and B-1 to B-7 to the writ petition) and the rent receipts (Annexures-C and C-1 to C-12 to the writ petition) submits that the petitioners are owners of the land in question by way of inheritance as legal heirs of Alauddin Ahmed who purchased the land from the legal heirs of the original owner of the property by showing the chain of their title on the land in question. On the other hand, the Government have nothing to show as to how it became owner of the land in question and as such inclusion of the property of the petitioners in the 'Ka' list of Arpito Sampatti is illegal, malafide, colorful exercise of power and liable to be declared to have been included and published in the Gazette without lawful authority and is of no legal effect.

She lastly submits that it is well settled that no property can be vested after 23.03.1974 A.D but in the instant case the property in question were vested in 1978 A.D, moreover till 1420 B.S the Government took rent from the petitioners and thus inclusion of the property of the petitioners in Arpito Sampatti 'Ka' list is liable to be declared to have been included as illegal, malafide and colourful

exercise of powers and hence the property is liable to be released from 'Ka' list of Arpito Sampatti.

The Deputy Attorney General finds difficult to discard the submissions made by the petitioners but opposes the Rule.

We have considered the submissions made by the learned Advocate of the petitioners, perused the writ petition and the annexures annexed thereto.

On perusal of the record it appears that 11.63 acres of land was belonged to Felu Mistry and was recorded in C.S. Khatian Nos. 76 and 71 and after his death his four sons namely Narendra, Jogesh, Panchananda and Premananda became owners. So each son of Felu Mistry inherited an area of $1.93 \frac{5}{6}$ acres. The Union Parishad taxes were paid by them and the voter list of 1973 (Annexure-A-3 to writ petition) also shows that their names were included, as such, they are citizen of Bangladesh (Annexures-A, 'A-1', 'A-2' and 'A-3')

During S.A. survey the land was recorded in the name of four sons of late Felu Mistry namely Narendra, Jogesh, Panchan and Premananda in S.A. Khatian No. 98 (Annexure-B-4 to writ petition). It is alleged that Panchananda son of late Felu Mistry died unmarried leaving behind his three full brothers-Narendra, Jogesh and Premananda and on the contrary no evidence had been produced before us. Thus Nerandra, Jogesh and Premananda got an area of

2.58 $\frac{4}{9}$ acres land each in their share from their father and brother.

That Narendra Chandra Sutradhar, Jogendra and Premananda mutually partitioned their share vide Deed No. 725 dated 25.01.1962 and possessed their respective shares (Annexure-B to writ petition).

That Narendra Chandra Sutradhar, son of late Felu Chandra Roy @ Felu Mistry sold an area of .06 acres from CS Khatian No. 76, C.S. Plot No. 776, (Corresponding S.A Khatian No.98, SA Plot No.776, R.S Khatian No. 235, R.S Plot No. 1615 Annexure-B-1 to writ petition) to Alauddin Ahmed (the father of the petitioners) by registered Saf Kabala Deed No. 10903 dated 29.12.1969 and delivered possession thereon. That Premananda (son of late Felu Chandra Roy @ Felu Mistry) sold 0.35 acres of land from C.S Khatian No.71, C.S. Plot No. 792 (Corresponding SA Khatian No.98, SA Plot No.792, R.S Khatian No.235, RS Plot No. 1678, Annexure-B-2), $0.17\frac{1}{2}$ acres of land from C.S Khtain No.71, C.S. Plot No. 795 (Corresponding SA Khatian No.98, SA Plot No.795, R.S Khatian No.258, RS Plot No.1682) and 0.36 acres of land from C.S Khatian No.76, C.S Plot No. 795 (Corresponding SA Khatian No.98, SA Plot No.795, R.S Khatian No.235, RS Plot No.1672) to the said Alauddin Ahmed vide Registered Saf Kabala Deed No.6061 dated 27.06.62 (Annexure-B-2). In this way Alauddin Ahmed became

owner of $(0.6+0.35+0.17\frac{1}{2}+0.36)=0.94\frac{1}{2}$ acres of land and mutated his name in the concern Tahshil Office.

After the death of Alauddin Ahmed, the petitioners as his heirs have been in physical possession on land in question by paying rent till 1420 B.S without any hindrance from any quarter (Annexure-C-11).

It appears from S.A. Khatian No. 98 of Mouza Harordia, new J.L. No. 106 (Annexure-B-4 to writ petition) that the names of the vendors of the predecessor of Alauddin Ahmed i.e Narendra Chandra Sutrahara and Premananda Sutradhar, sons of late Felu Mistry were recorded.

The said property listed as vested property in 'Ka' list published on 16.04.2012 as serial No. 21 and the petitioners became learn to know about the list on 06.12.2023 when they went to pay the rent but the authority refused to accept the rent alleging that the property in question included in 'Ka' list. Then the petitioner No.2 filed applications on 06.12.2023 and 21.12.2023 (Annexures-D-1 and D-2) to accept the rent but in vain. That the petitioners are owners and possessors of the said land by way of inheritance and on the other hand the Government did not show any right, title and interest over the case land rather the same was enlisted illegally in the 'Ka' list of vested property in Bangladesh Gazette and published on 16.04.2012.

It is well settled principle of law that after 23.03.1974 no property can be included in the list of vested property but we find that the property in question were vested in 1978 and enlisted in 'Ka' list of Arpita Sampatti published in Bangladesh Gazette dated 16.04.2012 and from the petitioners' documents it is clear that the petitioners have right, title and interest on the property measuring 0.94½ acres of land out of 2.98 acres land from the said 'Ka' list of Arpito Sampatti published in Bangladesh Gazette dated 16.04.2012 at serial no. 21 (Annexure-D) situated under Mouza- Harordiar, Upazilla- Monohardi, District- Narsingdi, C.S. Khatian No. 76, S.A. Khatian No. 98, R.S. Khatian Nos. 235 and 258, C.S. and S.A. plot Nos. 776,792,795 and 795 R.S. Plot Nos. 1615, 1672, 1678 and 1682.

Considering the above facts and circumstances and the respective laws we are of the view that the impugned 'Ka' list attracts the petitioners' land measuring 0.94½ acres of land and the land be released in favour of the petitioners and thus we find merit in the Rule Nisi and thus the Rule Nisi is made absolute-in-part.

Resultantly, respondent is directed to release the landed property of the petitioners measuring 0.94 ½ acres of land out of 2.98 acres land from the 'Ka' list of Arpito Sampatti published in

Bangladesh Gazette dated 16.04.2012 at serial no. 21 (Annexure-D) situated under Mouza- Harordiar, Upazilla- Monohardi, District- Narsingdi, C.S. Khatian No. 76, S.A. Khatian No. 98, R.S. Khatian Nos. 235 and 258, C.S. and S.A. plot Nos. 776,792,795 and 795 R.S. Plot Nos. 1615, 1672, 1678 and 1682.

There will be no order as to cost.

Let a copy of this judgment be transmitted to the respondent immediately.

A.F.M. Saiful Karim, J:

Fatema Najib, J:

I agree.

Fatema Najib, J: