

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

Present

Mr. Justice Sikder Mahmudur Razi

And

Mr. Justice Raziuddin Ahmed

Writ Petition No. 382 of 2025

In the matter of:

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

And

In the matter of:

Ranjit Kumar Das and others
.....Petitioner.

-Versus-

Government of the People's Republic of Bangladesh, represented by the Secretary, Ministry of Housing and Public Works, Bangladesh Secretariat, Ramna, Dhaka and others.
.....Respondents.

Mr. Md. Faizullah, Adv. With

Mr. Ziaur Rashid Tipu, Adv.

.....For the petitioners.

Mr. Mohammad Mehdi Hasan, DAG with

Mr. Md. Rashadul Hassan, DAG with

Mr. Kamrul Islam, AAG

Mr. Md. Shagar Hossain, AAG

Mr. Bishwanath Krmaker, AAG

Mr. S.K. Obaidul Haque (Wasim) AAG

.....For the respondents.

Heard on: 09.12.2025

And

Judgment on: The 11th December, 2025

Sikder Mahmudur Razi, J:

The petitioners, by filing an application, prayed for a direction upon the respondents to exclude the property in question from the list of

heritage. The application was heard at length and no one appeared to oppose the same. It was submitted that in similar matters, in a series of cases, the High Court Division has either made the Rule absolute or disposed of the petitions with directions to exclude the concerned properties from the heritage list. In view of such submissions and the settled position of law, we deem it appropriate to finally dispose of the matter by pronouncing appropriate judgment instead of merely allowing the application. Accordingly, the matter was posted for judgment.

In the instant matter a *Rule Nisi* was issued in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the respondents shall not be directed to exclude the petitioner’s land being Plot No. 1-1/A, of Village- Shakhari Nagar Lane, Post Office- Genderia-1204 from the heritage list of Dhaka City prepared by the respondents despite the report dated 11.02.2024 prepared by the respondent no. 3 (Annexure-F) shall not be declared to have been done without lawful authority and is of no legal effect and or such other or further order or orders passed as to this court may seem fit and proper”.

Facts leading to the filing of the instant writ petition are that Sree Nitai Chandra Das became the owner of the land in question by way of purchase through 02 deeds in the year 1943. On the death of said Sree Nitai Chandra Das his sons namely Sree Boiddonath Das and Sree

Promoth Nath Das became the owners of the land by way of succession. On the death of Sree Promoth Nath Das his son Sree Basudeb Das became the owner of the property by way of succession. Subsequently, during R.S. survey name of said Sree Boiddonath Das and Sree Basudeb Das was recorded in R.S. Khatian No. 2835. Subsequently, they divided their ejmali properties by way of registered partition deed dated 18.01.1989. Subsequently, during Dhaka City survey name of said Boiddonath Das was recorded in Dhaka City Jarip Khatian No. 4313 and name of said Bashudeb Das was recorded in Dhaka City Jarip Khatian No. 4244. Subsequently, on the death of Boiddonath Das his son Ranjit Kumar Das and Dilip Kumar Das became the owners of the property left by their father and on their prayer their names were recorded in Mutation Khatian No. 16011. On the other hand on the death of Basudeb Das his daughter Sujala Das became the owner of the property left by her father and on her prayer her name was recorded in Mutation Khatian No. 8317.

Thus, the petitioners have been owning and possessing the schedule property peacefully and the City Corporation holding number of the property in question are Holding Nos. 1 and 1/A, Shakhari Nagar Lane.

The dispute arose when the petitioners discovered that their residential property had been listed as a “heritage site” by the authorities, which imposes restrictions on its use and development. The petitioners’ property had been listed at serial no. 236 of the list prepared by Urban

Study Group for the purpose of protection of antiquity having architectural heritage. Relevant part of which is quoted below:

	Grade-I	Grade-II	Grade-III
236	Shakhari Nagor Lane		
	#2-3, #27, 28	#1,1/A, #5-8, #12, #22, 25, 25/1,26,27,28;25,25/1,#29,#30/1,#31/1, #31,#31/2,#38,38/1,38/A,38/B	#3-4, #9, #10-11,#15/1

The petitioner stated that in a list of heritage buildings published by a Gazette Notification dated 29.11.2017 by RAJUK (Annexure- E) only 75 buildings in Dhaka City were notified as national heritage building where the building in question of the petitioner has not been included. The petitioners further stated that RAJUK prepared a final list of Heritage Buildings of Dhaka City and published the same by a Gazette Notification dated 06.09.2020 where 74 building has been enlisted as heritage buildings and where the petitioners' building i.e. the subject matter of the instant writ petition has not been included. But it was enlisted as heritage building in the list of heritage site prepared by Urban Study Group.

The petitioners' further case is that a survey report of 4 buildings in 13th phase, conducted by Department of Archaeology has been submitted before the Solicitor Office vide memo No.43.23.0000.121.04.187.23.355(1-2) dated 18.03.2024 following the Judgment passed in Writ Petition No.3959 of 2018 and Writ Petition

No.4656 of 2018. In the said report the building of the petitioners was placed in serial no. 3 with the following comment:

"প্রত্নতাত্ত্বিক বৈশিষ্ট্য না থাকায় The Antiquities Act, 1968 (সংশোধিত ১৯৭৬) অনুযায়ী পুরাকীর্তি হিসাবে সংরক্ষণ যোগ্য নয়।".

Placing these facts of the writ petition Mr. Md. Faizullah, learned Advocate along with Mr. Md. Ziaur Rashid Tipu, learned Advocate appearing on behalf of the petitioner submits that property had never previously been recognized or notified as an antiquity or heritage structure in any formal record. Its sudden inclusion in the enlarged heritage list was done unilaterally, without any prior notice to or consultation with the petitioners. The learned advocate alleges that the property was not included in the antiquity list initially, but at some point it was entered into the heritage/antiquities list without the owners' knowledge or consent. In other words, the designation came as a surprise to the long-time owners, who had always regarded it as a private family home with no special historical importance.

The learned advocate next submits that the continued listing of the private property as a heritage site, without justification, violates their fundamental rights guaranteed by the Constitution of Bangladesh, in particular, the right to property under Article 42 and the right to protection of law under Article 31. By effectively restricting the petitioners' use and enjoyment of their lawfully owned property, the respondents have

infringed these rights. The learned advocate emphasizes that that owning and developing property is a fundamental right which cannot be curtailed arbitrarily on a mere speculative heritage claim.

The learned advocate next submits that the land and building in question are entirely private in nature, with no public heritage character. The family has owned the property by purchase and thereafter by succession for a long time, and it has been used as a residence throughout. There is no record or evidence that the property has any historical importance to the nation or any unique architectural significance. Therefore, keeping it on a heritage conservation list is irrational and unwarranted. The learned advocate next submits that even the competent authority i.e. Department of Archaeology has, upon inspection, concluded that the property is not a national heritage site and does not fulfill the criteria of an antiquity under the Antiquities Act. Continuing to treat it as such, in the face of contrary evidence, is according to the learned advocate an arbitrary and *malafide* action on the part of the authorities.

The learned advocate relies on the judgment passed by the High Court Division in the case of Mst. Khodeza Begum (Maya) vs. Government of Bangladesh [*Writ Petition No. 2017 of 2022*]. The learned advocate submits that in that case as well as in other cases, under analogous facts, the High Court Division directed the delisting of a private

property from the heritage list. The petitioners contend that the principle from that judgment should be applied equally to their case: i.e., where a property is found not to qualify as an antiquity or heritage site, the authorities are duty-bound to exclude it from the heritage inventory within a reasonable time.

With these submissions the learned advocate prays to make the Rule absolute.

We have heard the learned advocate, perused the writ petition and the annexures appended thereto.

Earlier this Division, vide judgment and order dated 13.08.2018 passed in Writ Petition No. 3959 of 2018 and Writ Petition No. 4656 of 2018 (both heard and disposed of analogously), passed the following order:

In view of the above the Director General, Department of Archaeology of the Ministry of Cultural Affairs, the respondent no. 3 in both the aforesaid Writ Petition is directed to examine and ascertain the historical and archaeological importance of all the 2200 building and sites mentioned in the list submitted by the petitioner in his letter dated 05.12.2017 and accordingly, take appropriate steps under section 3 of the Antiquities Act, 1968 for their preservation in accordance with law and report compliance to

this Court about the progress every three months as a continuous mandamus.

Further the respondent no. 4 RAJUK is directed not to approve or allow construction of buildings in any of the sites covered in the aforesaid list of 2200 buildings (Annexure- A) until finalization or report by the Advisory Committee except Holding Nos. 41/1, 41/2, 42/1, 42/2 and 27 of Hrishikesh Das Road, Sutrapur, Puran, Dhaka and the owners of the said buildings are directed not to alter and modify its structures from their present condition. With the aforesaid direction and observation both the Rules are disposed of.

It appears from Annexure- E to the writ petition that a list of heritage buildings published in a Gazette Notification dated 29.11.2017 by RAJUK only 75 buildings in Dhaka City were declared as national heritage building where the building in question of the petitioner has not been included. Further, it has been brought to our notice that RAJUK prepared a final list of Heritage Buildings of Dhaka City and published the same by a Gazette Notification dated 06.09.2020 where 74 building has been enlisted as heritage buildings and where the petitioner's building i.e. the subject matter of the instant writ petition has not been included. By the Gazette notifications dated 06.09.2020 all the earlier notifications has been repealed.

Moreover, from Annexure-F and L to the writ petition it further appears that after survey of 4 nos. of buildings in 13th phase, Department of Archaeology also submitted a report being File No. 43.23.0000.121.04.187.23.355(1-2) dated 18.03.2024 and in the said report the building of the petitioner was placed in serial no. 3 with the following comment:

"প্রত্নতাত্ত্বিক বৈশিষ্ট্য না থাকায় The Antiquities Act, 1968 (সংশোধিত ১৯৭৬) অনুযায়ী পুরাকীর্তি হিসাবে সংরক্ষণ যোগ্য নয়।".

More so, in similar situation this court in Writ Petition No. 8681 of 2022, Writ Petition No. 9744 of 2022 and Writ Petition No. 4355 of 2022 directed the respondents to allow the petitioner of those writ petitions to construct building on their land. Further, in Writ Petition No. 2017 of 2022 as well as in Writ Petition No. 16009 of 2022 under similar facts, the High Court Division directed the exclusion of private property from the same heritage list. Additionally, in Writ Petition No. 3959 of 2018 and Writ Petition No. 4656 of 2018 (both heard and disposed of analogously) a number of owners of land similarly situated filed applications for delisting their names from the list and those were allowed accordingly.

In view of the above facts, observations and discussions made hereinabove; we find substance in the instant rule and as such the same is required to be made absolute.

In the result, the Rule is made absolute.

The respondents are directed to exclude Holding No.1, 1/A of Shakhari Nagar Lane, Gendaria, Dhaka from the list of the heritage within a period of 03 (three) months from the date of receipt of the copy of the judgment and order.

Communicate the Judgment and Order at once.

(Sikder Mahmudur Razi, J)

I agree.

(Raziuddin Ahmed, J)