

In the Supreme Court of Bangladesh
 High Court Division
 (Special Original Jurisdiction)
Present
Justice Md. Habibul Gani
And
Justice Sk. Tahsin Ali

Writ Petition No. 2339 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:

Md. Tariqul Islam

..... Petitioner

Vs.

Govt. of Bangladesh represented by the Secretary, Ministry of Power Energy and Mineral Recouse, Ramna, Dhaka and others

...Respondents

Mr. Zahurul Islam Mukul, Senior Advocate with
 Mr. Tamanna Khanam, with
 Mr. Abul Kalam, Advocates

... for the petitioner

Mr. J.R. Khan Robin, DAG with
 Mr. Md. Osman Chowdhury, DAG and
 Mr. Kamrul Islam, AAG and

Mr. Kamrunnahar Tamanna, AAG and

Mr. Ahmad Musanna Chowdhury, AAG

..... For the State

Mr. Taisir Hoque, Advocate

.... for the respondent No. 2

Heard on: 26.10.2025, 26.11.2025 and
Judgment on: 30.11.2025

Sk. Tahsin Ali, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh filed by the petitioner, a Rule Nisi was issued calling upon the respondents to show cause as to why the inaction

of the respondent Nos. 1-4 to connect the Double burner Gas connection user ID Code No. 114-3394 to the apartment No. A/2 of 39/8, Manshibari Road, Jhigatola, Dhaka owned by the respondent No. 05 pursuant to the application dated 02.02.2025 as contained in Annexures-G and G1 to the petition should not be declared to have been passed without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this court may seem fit and proper.

The petitioner during pending hearing of the rule filed an application for stopping the gas connection to the respondent No. 2,3 and 4 ID No. 114-3394 on 26.06.2026 after hearing the parties, this Hon'ble High Court Division considering the submissions of the learned advocates from both sides passed an order to direct the parties to maintain status-quo of giving any Gas connection in the apartments of scheduled property.

The averments figured by the petitioner are briefly the petitioner entered into an irrevocable power of attorney with land owner Meheranessa Malik which was registered on 16.10.2026 vide deed No. 732 for development and construction of seven storied building over a piece of land measuring an area 2.50 Katha wherein it has specifically stipulated that the share of the land owner and developer will be 50% each in all respect. There were three 03 (three) double burner gas connection into the old building over the land before construction.

After construction of seven storied building there are six apartments over the land. Land owner Meherunnessa Malik sold her share of three apartments to different persons by registered sale deed in the year 2000. The petitioner also sold his share that is three apartments and garage to 3 different persons including apartment A-2(3rd floor) to the respondent No. 05 along with a gas connection of Double burner line. The persons who have purchased the flat of the land owner claiming all the three gas connection to their purchase apartments respectively the petitioner also claiming 2 (two) gas connection into his share portion including the apartments of the respondent No. 05 and also the residence which he resides accordingly the dispute raises.

Since then dispute regarding distribution of the gas lines to the flat owners since 2020. The respondents No. 1-4 trying to giving the connection of 3 gas lines being Code No. 114-3394 to the flat owners purchase from the land owner. On 08.01.2025 the petitioner filing an application to the respondent No. 03 to stop the mutation/separation and connection of the gas line until separation of the gas line to the portion of the land owner and the developer in 50% each share. Again on 27.01.2025 remanded the respondent No. 04 and requested to connect 50% share basis gas connection and to separate the mutation/enlistment of the apartment owner who are entitled to get the gas connection including the name of the respondent No. 05 but till date the respondent

Nos. 1-4 has not taken any steps in considering the relevant papers that is the registered power of attorney and joint development and construction agreement dated 16.10.2016 respectively, hence the instant writ petition to which the petitioner obtained Rule.

Mr. Zahurul Islam Mukul learned Senior Advocate with Ms. Tamanna Khanam with Mr. Abul Kalam learned advocates appeared on behalf of the petitioner while learned Deputy Attorney General Mr. J.R. Khan Robin with Mr. Md. Osman Chowhdury, Deputy Attorney General with Mr. Ahmad Musanna Chowdhury, AAG with Ms. Kamrunnahar Tamanna, AAG appeared for the state/respondent and Mr. Taisir Hoque, learned advocate appeared for the respondent No. 2.

Learned advocate for the petitioner Mr. Md. Zahurul Islam Mukul filed supplementary affidavits and submitted that the petitioner being developer entered into registered agreement by way in evocable power of attorney on 16.10.2016 for development and constructed 7(seven) storied residential buildings over the scheduled property availed by Mrs. Meherunnessa Malik. He further submits that as per the registered power of attorney, land owner Meherunnessa Malik receipt a sum of Tk. 20,00,000/- (twenty lac) as signing money and portion of the land and building into 50% each including parking as per clause 6(six) it has been specified in the following terms:

“নীচ তলায় কমন স্পেস ও কার ড্রাইভিং এরিয়া বাদে ১ম পক্ষ/ভূমি মালিকগণ ৫০% ভাগ করে পার্কিং এবং ২য় পক্ষ ডেভেলপার ৫০% ভাগ করে পার্কিং প্রাপ্ত হইবেন তাহাছাড়া সর্বক্ষেত্রে যে কোন অবস্থায় উভয় পক্ষ ৫০%:৫০% হারে/অনুপাতে ভাগ পাইবেন।”

In paragraph 8 of the registered deed of power of attorney it has been further mentioned that “ ইহা ছাড়া আমার নিযুক্ত আমমোক্তার সাবরেজিষ্ট্রি অফিস, বিদ্যুৎ অফিস ওয়াসা অফিস, গ্যাস অফিস, বাসা টেলিফোন অফিস, ঢাকা সিটি কর্পোরেশন অফিসসহ যে কোন অফিস বা অফিসসমূহে প্রয়োজনীয় কাগজাদি সম্পাদন করিতে পারিবেন।”

Learned Advocate for the petitioner also submits that the petitioner and the land owner entered into joint agreement which was registered on 20.10.2016 for development of the land wherein paragraph 14 it has been more specified about the gas connection of the purchaser of the flats in that case the portion of the flat owner can use the common space and other facilities in equal status. The power of attorney and the development agreement was signed on 16.10.2016, after completion of the building and structure it was found that the gas connection of the old building was not in the name of land owner Meherunnessa Malick that upon application of this petitioner on payment of huge amount of taka by this petitioner the gas connection was restored and thereafter the name of the Meherunnessa Malick entered into the ledger of the Titas Gas authority on 23.03.2025.

The “গ্যাস বিপন্নন নিয়মাবলী ২০১৪(গৃহস্থালী গ্রাহকের জন্য প্রযোজ্য) published on 18.08.2014 in the definition of the “মালিকানা পরিবর্তন” under clause 1(39)

“একক মালিকের ক্ষেত্রে মালিক মৃত্যবরণ করলে ওয়ারিশ সূত্রে মালিকানা পরিবর্তন বুঝাবে এবং অংশীদারী মালিকানার ক্ষেত্রে অংশীদারদের মধ্যে সম্পাদিত চুক্তির আলোকে মালিকানা পরিবর্তন বুঝাবে” that in the clause 9 and sub clause 9.2 of the “গ্যাস বিপন্নন নিয়মাবলী ২০১৪” it has been stipulated that “ গ্যাস মালিকানা /নাম পরিবর্তন চার্জ:- গ্যাস সংযোগকৃত কোন গ্রাহকের মালিকানা বা নাম পরিবর্তন করতে হলে নতুন মালিকের প্রয়োজনীয় সকল কাগজপত্র নোটারী পাবলিকের দ্বারা প্রত্যয়নপূর্বক জমা প্রদানসহ ৫০০ (পাঁচশত) টাকা চার্জ পরিশোধ করতে হবে। উক্ত সংযোগের বিপরীতে পূর্বের মালিক/মালিকগণের কোন বকেয়া থাকলে মালিকানা/নাম পরিবর্তনের সময় তা পরিশোধ করতে হবে।

Since the land owner Meherunnessa Malick was not enlisted owner of the gas line prior to 23.03.2025 and as per the power of attorney and agreement out of 3 (three) double burner gas connection, it was not possible to divide into 50% each, considering the same this petitioner filling an application requested to give only 1 (one) connection in this portion to the apartment No. A/2 (2nd Floor) that is the apartment of respondent no. 5 on 02.02.2025.

Mr. Taisir Hoque, learned Advocate for the respondent No. 2, filed supplementary affidavit contesting the writ petition stating inter-alia that, as per the company records, there were 03 (three) double-burners stoves in the name of Meherunnessa Malick at Holding No. 29/8, Munshi Bari, Jhigatoal, Dhaka under Customer Code No. 114-3394 in the computer ledger. The connection is presently active under the said Customer Code No. 114-3394 in the name of Meherunnessa

Malik. During the inspection of the premises, the subsequent purchasers of the 3(three) flats from Meherunnesa Malik namely Flat No. A/1 (2nd floor), Flat No. A/3 (4th floor) and Flat No. A/5 (6th floor) respectively were found using gas from said 03 (three) double-burner stoves. He further submits that in the year 2007 the respondent company (Titas Gas) went through system upgradation and all the general ledger statements of the customers were turned to computer ledger. From 01.07.2007 to 17.11.2025, Meherunnesa Malik remained recorded as the customer of the company. However, during the transition from the manual ledger to the computer ledger, mistakenly a wrong entry was made and the name Md. Hossain was inserted instead of the original customer Meherunnesa Malik. It is evident from the company ledger that the company became aware about the clerical mistake on 08.08.2022. Therefore, on 29.01.2025 Meherunnessa Malik submitted an application for correction and on the basis of the said application correction was made and Md. Hossain name was removed in accordance with law on 23.03.2025 prior to the ad-interim order of status-quo dated 26.06.2025. Learned advocate for the respondent No.2 further submits that the petitioner application regarding the separation of one double stove out of three double stoves along with riser for the purpose of paying the gas bill dated 02.02.2025 against the customer Code No. 114-3394. The petitioner applicant was required to collect a no objection certificate (NOC) from the owner of

the existing Gas connection Ms. Meherunnesa Malick. He also submits that registered customer in question Meherunnesa Malick had 3 (three) approved double stoves, as per the application of Meherunnesa dated 29.01.2025. The current appeared 3 (three) double stoves are being used by the owners who purchased these flats from Meherunnesa under the customer ID No. 114-3394 which is still in her name and has not been transferred on separated till today. He further submits that the contract between the owner Ms. Meherunnesa and the developer is a essentially a commercial contract on contract of a general nature or a pure and simple contract. So the relief sought through challenging inaction of the respondent is not legally available to the petitioner in respect of the contract entered into between the petitioner and the land owner that is Ms. Meherunnessa Malik. He further submits that it is now well settle that writ petition is not maintainable in respect of a pure and simple commercial contract (17 BLT (AD) 198, 27 BLD (AD) 298). Writ petition will not lie to enforce contractual rights where the contract provides for arbitration of disputes because arbitration is an alternative forum (10 BLC (AD) 151, 9 BLC (AD)1).

Mr. J.R. Khan Robin the learned Deputy Attorney General appearing for the respondents opposes the Rule.

We have heard the learned Advocates from both sides and perused the application along with the relevant materials. Considering the facts

and circumstances of the aforesaid cases, we are of the view that principle settled in those cases are not at all applicable to the facts and circumstances of the present case. It is an admitted position in this writ petition that Meherunnesa Malick, being the land owner, was the owner and user of the three double-burner gas stoves. It is also evident from the sale agreements with the 3(three) flat owners that while being the land owner Meherunnesa Malick has given two double burner gas stoves to two purchasers, and rest one has not been given to anybody which means she bear in her mind regarding the condition of development agreement with petitioner that the developer will get 50% of the whole constructions.

The petitioner has followed the Rule 9(2) of the গ্যাস বিপন্ন নিয়মাবলী, ২০১৪ but the learned advocate for respondent No. 2 has drawn our kind attention to Rule 3.2 of the said Act, which is not applicable upon this petitioner or the petitioner is not a new applicant seeking a fresh Gas connection from the company as well.

The petitioner being the developer of the company has automatically replaced as per the development contract as well sale agreement with the land owner. Since the three double-burner were in the name of the land owner Ms. Meherunnesa Malick then the petitioner having any question automatically owned the 50% of the land owners three burners out of three double burners gas connection it was not

possible to divide into 50% each considering the prevailing circumstance this petitioner filed an application on 02.02.2025 requested the respondent No. 2 to give only one gas connection in her portion to the Flat No. A/2 that is apartment of respondent No. 05.

Under the facts and circumstances of the case, and in view of the discussions made above, we are of the considered opinion that the Rule bears merit.

In the result, the Rule is made absolute with direction upon the respondent Nos. 1-4 to provide one gas connection to apartment No. A/2 (2nd Floor) that is apartment of respondent No. 05, (Developer Portion) within 15(fifteen) days from the date of receipt of this judgment and order.

The Order of status-quo granted earlier by this court is hereby recalled and vacated.

Communicate this judgment and order at once.

Md. Habibul Gani, J

I agree.