

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)
Writ Petition No. 3820 of 2021.

with
Writ Petition No. 3821 of 2021.
IN THE MATTER OF:

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

-And-

IN THE MATTER OF:

Shahabuddin Ahmed.

.....Petitioner
(In both writ petitions)

-Versus-

The Government of the People's Republic of
Bangladesh, represented by the Deputy
Commissioner and others.

..... Respondents

Mr. Zakir Hossain Bhuiyan, Advocate

.....For the petitioner
(In both writ petitions)

Mr. Md. Nasir Shikder, Advocate with

Mr. Mitul Bhounik, Advocate

.....For the Res. No. 4
(In both writ petitions)

Mr. Mirza Al Mahmood, DAG with

Mr. Akhtar Hossain Md. Abdul Wahab, DAG with

Ms. Khandaker Asma Hamid, AAG with

Mr. S.M. Emamul Musfiquer, AAG with

Mr. Md. Mashiur Rahman (Riad), AAG with

Mr. Md. Mehebab Hossain, AAG

..... For the respondents

Present:

Justice Fatema Najib

And

Justice A.F.M. Saiful Karim

Heard on 30.04.2026 and 07.05.2026.
Judgment on 19.05.2026.

A.F.M. Saiful Karim , J:

Since both the Writ Petitions arose from the judgment and decree passed by the Vested Property Release Appellate Tribunal regarding release of the same property from the list of Vested Property, so, for sake of convenience these are taken up together for hearing and are being disposed of by this single judgment.

On an application under Article 102 of the Constitution of People's Republic of Bangladesh a Rule Nisi was issued in Writ Petition No. 3820 of 2021 on 04.04.2021 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned judgment and decree dated 01.02.2021 (decree signed on 04.02.2021) passed by the respondent No.2 Tribunal in Vested Property Release Tribunal Appeal No.63 of 2018 allowing the appeal and setting aside the judgment and decree dated 17.09.2018(decree signed on 24.09.2018) passed by the respondent No.3, Tribunal in Vested Property Release Tribunal Suit No.45 of 2012 dismissing(Sic) the suit on contest as contained in Annexure "A", "A-1", "A-2", and A-3" should not be declared to be illegal 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.”

AND

In Writ Petition No. 3821 of 2021 a Rule Nisi was issued on 04.04.2021 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned judgment and decree dated 01.02.2021 (decree signed on 04.02.2021) passed by the respondent No.2 Tribunal in Vested Property Release Tribunal Appeal No.64 of 2018 allowing the appeal and setting aside the judgment and decree dated 17.09.2018(decree signed on 24.09.2018) passed by the respondent No.3, Tribunal in Vested Property Release Tribunal. Suit No.598 of 2012 dismissing the suit on contest as contained in Annexure "A", "A-1", "A-2", and A-3" should not be declared to be illegal 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 of writ petition No. 3820 of 2021, in brief, are that-

On 26.06.2012 the petitioner as the sole plaintiff instituted Vested Property Release Tribunal Suit No. 45 of 2012 before the respondent No. 3 Tribunal against the respondent Nos. 1 and 4 praying for a decree for release of the suit land from the list of vested property contending, inter alia, that an area of 7.23 decimals of land including the suit land originally belonged to Jamuna Chamar and Gayanath Chamar in equal shares; that Gayanath Chamar transferred his share to one Usha Rani Datta wife of Anil Kumar Datta by way of sale deed; that Jamuna Chamar filed Miscellaneous Case No. XIII-B-45/71-72 in the office of the respondent No. 1 alleging that his share to the extent of $3.62\frac{1}{2}$ decimals of land was illegally declared abandoned by the Government; that after hearing and perusing the records, on 05.08.1972 the Additional Deputy Commissioner (Revenue) allowed the said Miscellaneous Case and cancelled the order of abandonment; that thereafter Jamuna Chamar transferred his share along with all the structures standing thereon to Anil Kumar Datta by a registered sale deed being No. 5752 dated 26.08.1972; that at that time one Narayan Chandra Karmaker instituted Title Suit No. 205 of 1972 in the Sadar Court of Munsif, Faridpur challenging the sale deed of Anil Kumar Datta, and on 14.01.1974 the said suit was dismissed on contest; that in order to grab the share of Gaya Nath Chamar, Narayan Chandra Karmaker filed Title Suit No. 19 of 1974 in the Court of Sadar Munsif,

Faridpur seeking a decree for specific performance of contract on the forged deed of contract, and on 23.02.1977 the said suit was dismissed on contest; that subsequently on 15.10.1976 Narayan Chandra Karmaker managed to obtain a paper lease of the suit land vide Lease Case No. XII-VP-82/76/77 in connivance with the unscrupulous employees of the Government; that being so aware, Anil Kumar Datta filed objection before the ADC (Revenue), Faridpur against the said lease, and on 06.06.1977 the said objection was rejected; that Anil Kumar Datta managed to have mutated the suit land in his name and paid land development tax to the exchequer; that subsequently, Anil Kumar Datta filed Title Suit No. 40 of 1977 against the Government challenging the enlistment of the suit land as vested property, and on hearing the said suit was decreed on contest vide judgment and order dated 19.10.1998; that being aggrieved the Government filed appeal being Title Appeal No. 126 of 1989 which was allowed and setting aside the judgment and decree dated 19.10.1998; that thereafter, Anil Kumar Datta filed Civil Revision No. 3160 of 1993 before Hon'ble High Court Division of the Supreme Court of Bangladesh, and accordingly Rule was issued. Subsequently, upon hearing the same was made absolute; that thereafter, the Government filed Civil Petition for Leave to Appeal No. 516 of 2000 before the Appellate Division against the aforesaid judgment and decree passed by the High Court Division, and on

29.01.2003 the said Civil Petition was dismissed; that meanwhile Anil Kumar Datta transferred the suit land along with the structures standing thereon in favour of his son Alok Kumar Datta by a registered deed of gift being No. 2722 dated 03.05.1993; that thereafter Alok Datta transferred the suit land in favour of the plaintiff-petitioner by a registered sale deed being No. 3584 dated 08.07.1996 and since purchase the petitioner has been enjoying the possession of the same without any interruption from any quarter; that at the time of sale Alok Kumar Datta handed over all the original title deeds to the petitioner; that Alok Kumar Datta never executed any bainapatra in respect of the suit land in favour of the defendant-respondent No. 4; that the said bainapatra is a forged and ante-dated document without consideration; that neither Alok Datta nor the petitioner was aware of decree passed in Title Suit No. 9 of 2001 filed by defendant-respondent no. 4 on the basis of bainapatra with Alok Kumar Datta; that the defendant-respondent No. 4 did not implead the petitioner as a party to that suit and as such the judgment and decree passed in that suit and the subsequent sale deed obtained by dint of that judgment and decree are all collusive, inoperative, without consideration and mere paper transactions and no right, title and interest accrued in favour of the defendant-respondent No. 4 on the basis of that judgment and decree and the corollary sale deed; that in order to grab the suit land, the defendant-respondent No. 4 as

plaintiff instituted VP Release Tribunal Suit No. 598 of 2012 and the petitioner got impleaded as a party to that suit at his instance and filed written statement; the cause of action of the suit arose on 26.04.2012 when the Government enlisted the suit land as vested property by notification in the official gazette.

The respondent No. 1 as the defendant No. 1 contested the Suit No. 45 of 2012 by filing a written statement denying the material facts of the plaint and contending, inter alia, that the plaintiff is neither the successor nor transferee of the original owner of the suit land; that Jamuna Chamar and Gaya Chamar, the original owners of the suit land left this country for India during the Indo-Pak War of 1965 without disposing of the same in any manner, and neither they nor their heirs ever came back to this country, and accordingly, the suit land was lawfully enlisted as enemy property as per Section 182 of the Defence of Pakistan Ordinance, 1969 and on repeal of that Ordinance the same was vested upon the Government as per Section 3 of the Enemy Property Act, 1974; that the Government leased out the suit land to Narayan Chandra Karmaker and others vide Lease Case No. XII-VP-58/76-77 and the said leases are in possession of the same on behalf of the Government.

The respondent No. 4, Md. Zahidur Rahman, as the defendant No. 2 also contested the Suit No. 45 of 2012 by filing a separate written statement denying the material facts of the plaint and

contending, inter alia, that the plaintiff had no reason or right to institute the suit; that the suit is not maintainable in its present form and manner; that the suit is barred by the principles of waiver, acquiescence and estoppel, and the same is without any cause of action; that an area of 724 sahasrangsha of land including the suit land originally belonged to Jamuna Chamar and Gaya Chamar; that Jamuna Chamar transferred his share by a registered sale deed dated 26.08.1972 in favour of Anil Kumar Datta who transferred the land measuring 03625 sahasransha of land out of his share in favour of his son Alok Kumar Datta by a registered deed of gift being No. 2722 dated 03.05.1993; that subsequently, Alok Kumar Datta entered into a contract for sale with the defendant No. 2 in respect of the suit land and when the executant Alok Kumar Datta refused to execute and register a sale deed in respect of the said land in favour of the defendant No. 2, the defendant no.2 instituted Title Suit No. 09 of 2001 seeking a decree for specific performance of contract; that on 28.10.2001 the said suit was decreed, and on 26.01.2003 he obtained a registered sale deed in respect of the said land through court and since then he has been enjoying the peaceful possession of the same by opening a new holding in his name and paying holding tax and other government dues; the suit land is not vested property decided in Title Suit No. 40 of 1977 filed by Anil Kumar and upheld up to the Appellate Division and Anil Datta's right, title, interest and

possession was finally established by the apex court of the country; that this defendant No. 2 instituted VP Release Tribunal Suit No. 598 of 2012 seeking release of the suit land from the list of vested property; that the plaintiff has no right, title, interest and possession in the suit land and as such the suit is liable to be dismissed with cost.

At the time of trial the respective parties examined witnesses and adduced documents in support of their respective cases.

After concluding the trial learned VP Tribunal decreed the suit vide judgment and decree dated 17.09.2018 (decree signed on 24.09.2018).

Being aggrieved by and dissatisfied with the above judgment and decree, Md. Zahidur Rahman i.e the respondent No. 4 as the sole appellant preferred Vested Property Appeal No. 63 of 2018 before the learned District Judge and Vested Property Release Appellate Tribunal, Faridpur which was heard by the respondent No. 2 Tribunal who by the impugned judgment and decree dated 01.02.2021 (decree signed on 04.02.2021) allowed the appeal and set aside the judgment and decree passed by VP Tribunal. Then, feeling aggrieved by the said judgment and decree passed by Vested Property Release Appellate Tribunal the petitioner moved this court and obtained the instant Rule Nisi.

Facts of writ petition No. 3821 of 2021, in brief, are that-

On 05.08.2012, Md. Zahidur Rahman i.e the respondent No. 4 as the sole plaintiff instituted Vested Property Release Tribunal Suit No. 598 of 2012 before the respondent No. 3 against the petitioner and the respondent No. 1 praying for a decree for release of the suit land from the list of vested property contending, inter alia, that an area of 724 sahasransha of land including the suit land originally belonged to Jamuna Chamar and Gaya Chamar; that Jamuna Chamar transferred his share by a registered sale deed dated 26.08.1972 in favour of Alok Kumar Datta who entered into a contract for sale with the plaintiff in respect of his purchased land; that subsequently when Alok Kumar Datta refused to execute and register a sale deed in respect of the said land in favour of the plaintiff, then the plaintiff instituted Title Suit No. 09 of 2001 seeking a decree for specific performance of contract; that on 28.10.2001 the said suit was decreed, and the plaintiff obtained a registered sale deed in respect of the said land through court on 26.01.2003; that in the meantime the Additional Deputy Commissioner (Revenue) leased out the same in favour of one Narayan Chandra Karmaker and other vide Lease Case

No. XII-VP-58/1976-1977; that thereafter Anil Datta instituted Title Suit No. 40 of 1977 and obtained a decree on contest against the Government that the suit land is not vested property and the said decree was upheld up to the Appellate Division and Anil Datta's right, title, interest and possession was finally established by the apex court of the country; that the plaintiff is the owner and possessor of the suit land and the latest record of right has been correctly prepared and finally published in his name; that the suit land has been illegally enlisted in Serial No. 100 of the Ka List of Vested Property and hence, the suit.

The respondent No. 1 as the defendant No. 1 contested the suit by filing a written statement denying the material facts of the plaint and contending, inter alia, that the plaintiff is neither the successor nor transferee of the original owner of the suit land nor is he a citizen or permanent resident of Bangladesh within the meaning of P. O. 149 of 1972; that the suit having been brought on false averments is liable to be dismissed and as such the suit land is not releasable; that the suit land was lawfully enlisted as enemy property as per Section 182 of the Ordinance of 1969 and on repeal of that Ordinance the same vested in the Government as per Section 3 of the Enemy

Property Act, 1974; that the Government leased out the suit land to Narayan Chandra Karmaker and others vide Lease Case No. XII-VP-58/76-77 and the said lessee are in possession of the same on behalf of the Government; that the Government has right, title, interest and possession in the suit land which has been lawfully enlisted as vested property and as such the suit is liable to be dismissed with cost.

The petitioner as the defendant No. 2 also contested the Suit No. 598 of 2012 by filing a separate written statement denying the material facts of the plaint and contending, inter alia, that admittedly Jamuna Chamar transferred the suit land along with the structures standing thereon to Anil Kumar Datta by a registered sale deed being No. 5652 dated 26.08.1972; that Jamuna Chamar permitted one Narayan Karmaker to stay in some portion of his land as tenant; that the said Narayan Chandra Karmaker instituted Title Suit No. 205 of 1972 in the Sadar Court of Munsif, Faridpur challenging the sale deed of Anil Kumar Datta, and on 14.01.1974 the said suit was dismissed on contest; that in order to grab the share of Gaya Chamar, Narayan Chandra Karmaker filed Title Suit No. 19 of 1974 in the Court of Sadar Munsif, Faridpur seeking a decree for specific performance of contract on the forged deed of contract, and on 23.02.1977 the said suit was dismissed on contest; that thereafter Narayan Chandra Karmaker managed to obtain a paper lease of the suit land vide Lease Case No. XII-VP-82/76/77 in connivance with

the unscrupulous employees of the Government; that being so aware, Anil Kumar Datta filed objection before the ADC (Revenue), Faridpur against the said lease, and 06.06.1977 the said objection was rejected; that Anil Kumar Datta managed to have the suit land mutated in his name and paid land development tax to the exchequer; that subsequently, Anil Kumar Datta filed Title Suit No. 40 of 1977 against the Government challenging the enlistment of the suit land as vested property, and the said suit was decreed on 19.10.1998 on contest; that being aggrieved the government filed Title Appeal No. 126 of 1989 which was allowed and the said judgment and decree dated 19.10.1998 was set aside vide judgment dated 24.07.1993; that thereafter, Anil Kumar Datta filed Civil Revision No. 3160 of 1993 before Hon'ble High Court Division of the Supreme Court of Bangladesh, and on 19.10.1998 Rule was issued and upon hearing the Rule was made absolute; that thereafter, the Government filed Civil Petition for Leave to Appeal No. 516 of 2000 before the Appellate Division against the aforesaid judgment and decree passed by the High Court Division, and on 29.01.2003 the said Civil Petition was dismissed; that meanwhile Anil Kumar Datta transferred the suit land along with the structures standing thereon in favour of his son called Alok Datta by a registered deed of gift being No. 2722 dated 03.05.1993; that thereafter Alok Datta transferred the suit land in favour of the defendant No. 2-petitioner by a registered sale deed

being No. 3584 dated 08.07.1996 and since purchase the petitioner has been enjoying the possession of the same without any interruption from any quarter.

During trial the respective parties examined the witnesses and adduced the documents. Upon hearing learned Judge of Tribunal dismissed the suit vide judgment and decree dated 17.09.2018.

Being aggrieved by and dissatisfied with the above judgment and decree, the respondent No. 4 as the sole appellant preferred Vested Property Appeal No. 64 of 2018 before the learned District Judge and Vested Property Release Appellate Tribunal, Faridpur on 08.11.2018 which was heard by the respondent No. 2 Tribunal who by the impugned judgment and decree dated 01.02.2021 (decree signed on 04.02.2021) allowed the appeal and set aside the trial court's judgment and decree. Then, being aggrieved by the judgment and decree passed in Vested Property Appeal No. 64 of 2018 the petitioner moved this court and obtained the instant Rule Nisi.

Mr. Zakir Hossain Bhuiyan, the learned Advocate for the petitioner submits that the learned court of appeal below committed an illegality in failing to appreciate the fact that the plaintiff-respondent No. 4 himself as P. W. 1 having not denied in his cross-examination that the defendant-petitioner purchased the suit land from Alok Kumar Datta by a registered sale deed being No. 3584 dated 08.07.1996, he had full knowledge about the said purchase and

the said sale deed being earlier in point of time prevails over the subsequently executed and registered sale deed being No. 458 dated 26.01.2003 of the respondent No. 4 under the provision of law and the trial court below lawfully and properly passed the respective judgment and decree as such by the impugned judgment and decree setting aside the trial court's judgment and decree is illegal and liable to be declared to be no legal effect.

He next submits that the learned court of appeal below committed an illegality in failing to appreciate that Title Suit No. 09 of 2001 having been filed much later is not maintainable in law, and the ex parte decree dated 28.10.2001 passed therein and the subsequent sale deed No. 458 dated 26.01.2003 obtained through court are all nullity in law in view of the fact that prior to the institution of the said suit, Alok Kumar Datta transferred the suit land in favour of the petitioner by a registered sale deed being No. 3584 dated 08.07.1996 and delivered physical possession of the same in his favour to the knowledge of the plaintiff-respondent No. 4 but without impleading Sahabuddin Ahmed i.e the present petitioner as defendant and as such the impugned judgment and decree is patently illegal and liable to be declared to be of no legal effect.

On behalf of the Respondent No. 4, the learned Advocate Mr. Md. Nasir Shikder appears without filing any affidavit-in-opposition and submits that Alok Kumar Datta entered into a registered

bainapatra with the respondent no. 4 dated 23.05.1996 in respect of the suit land and when the executant Alok Kumar Datta refused to execute and register a sale deed in respect of the said land in favour of the defendant no. 2 i.e. respondent no. 4, respondent no. 4 instituted title suit No. 09 of 2001 seeking a decree for specific performance of contract and got decree on 28.10.2001 and subsequently by dint of the decree he obtained registered sale deed through court on 26.01.2003 and since then he has been enjoying the peaceful possession of the property and considering these aspect of the case the appellate court below rightly passed the impugned judgments in both the appeals but the trial court below failed to consider these aspect of the case properly and without assigning any reason passed the respective judgment and decrees in both the suits and therefore both the Rule Nisi are liable to be discharged.

He next submits that the deed of agreement for sale dated 23.05.1996 based on which decree for specific performance has been passed is prior to the sale deed of the petitioner dated 08.07.1996 and the said sale deed dated 08.07.1996 has been created through forgery for the purpose of grabbing respondent's property.

He also submits that learned appellate court below properly found that the enlistment of the property in question as vested property had been declared illegal in the Title Suit No. 40 of 1977

and the decision of the trial court below given in that title suit had been upheld by the Apex Court and correctly held that the property in question is not vested property and thus the impugned judgments and decrees are not liable to be interfered.

The learned Deputy Attorney General opposes the Rule Nisi.

Findings and observations:

We have heard the submissions advanced by learned counsels of the respective parties and have gone through the writ petitions, the impugned judgments and decrees passed by the trial court below, impugned judgments and decrees and the other materials on record.

It appears that for releasing the suit land from the list of vested property the writ petitioner as sole plaintiff instituted অর্পিত সম্পত্তি প্রত্যর্পন ট্রাইব্যুনাল Suit No. 45 of 2012 and the respondent No. 4 as the defendant No. 2 contested the said suit. On the other hand for release of the suit land from the list of Vested Property the respondent No. 4 as the sole plaintiff instituted অর্পিত সম্পত্তি প্রত্যর্পন ট্রাইব্যুনাল Suit No. 598 of 2012 and the present writ petitioner as the added defendant No. 2 contested the suit. Upon hearing অর্পিত সম্পত্তি প্রত্যর্পন ট্রাইব্যুনাল Suit No. 45 of 2012 was decreed and অর্পিত সম্পত্তি প্রত্যর্পন ট্রাইব্যুনাল Suit No. 598 of 2012 was dismissed on contest. The present respondent no. 4 filed অর্পিত সম্পত্তি প্রত্যর্পন ট্রাইব্যুনাল Appeal Nos. 63 of 2018 and 64 of 2018

against the judgments and decree both dated 17.09.2018 passed in Suit No. 45 of 2012 and Suit No. 598 of 2012 respectively before the respondent No. 2 who after hearing allowed both the appeals and passed the impugned judgment and decree.

The petitioner claimed that he purchased the suit land from its original owner Alok Datta by a registered sale deed being No. 3584 dated 08.07.1996 and since then he has been enjoying the peaceful possession thereof by erecting pucca structures thereon, having his name mutated in public record, paying land development tax and holding tax of the local municipality and other public dues of the Government. In support of the claim, the petitioner annexed the said registered sale deed being No. 3585 dated 08.07.1996, proposed Khatian No. 648/1, order dated 18.07.1996 passed by the Assistant Commissioner (Land), Faridpur Sadar, Faridpur in AC (L) IX-P-1-3/96-97 approving mutation in the name of the petitioner, DCR No. 0194913 showing payment for mutation, two rent receipts and a tax receipt (Annexure-"H", "H-1", "H-2", "H-3", "H-4", "H-5", and "H-6" respectively to the writ petition no. 3820 of 2021).

The respondent no. 4 claimed that they got right, title and interest in the property in question by dint of a sale deed being no. 458 dated 26.01.2003 executed through court in execution of ex-parte decree dated 28.01.2001 passed in Title Suit No. 09 of 2001

filed for Specific Performance of Contract executed between original owner Alok Datta and the respondent no. 4 and against the said decree Title Appeal has been filed by the present petitioner in 2021 and admission of that appeal is disputed in terms of condonation of delay in filing the appeal and the said matter of condonation of delay is pending before the Hon'ble High Court Division in Civil Revision No. 673 of 2024.

The only question before us whether the property (vested property) in question can be released either in favour of the petitioner or in favour of the respondent no. 4 ?

Appellate Court below found that the property in question is not vested property and as the government has not challenged the judgment and decree passed by the অর্পিত সম্পত্তি প্রত্যর্পন আপীল ট্রাইব্যুনাল in অর্পিত সম্পত্তি প্রত্যর্পন আপীল Nos. 63 of 2018 and 64 of 2018 and inasmuch as the title/ownership of Alok Kumar Datta in the property in question had been established upto Appellate Division. Both the writ petitioner and the Respondent No. 4 claimed their respective title through Alok Kumar Datta. The writ petitioner's claim is that by dint of a registered deed being no. 3584 of 1996 he purchased the suit land from original owner Alok Datta and thus he got right, title and interest of the property. On the other hand, the respondent no. 4 claimed that he got right, title and interest on land in question in

2003 through a registered deed dated 26.01.2003 executed by dint of a decree dated 28.10.2001 passed in Title Suit No. 09 of 2001 filed for specific performance of contract for sale dated 23.05.1996 executed between Alok Kumar Datta and the Respondent No. 4.

The writ petitioner filed Title Appeal No. 93 of 2021 before the District Judge, Faridpur on 25.08.2021 against the judgment and decree dated 28.10.2001 passed in Title Suit No. 09 of 2001. Title Appeal was admitted for hearing condoning delay in filing the same, and being aggrieved by and dissatisfied with the said admission order, the respondent No. 4 as the sole petitioner filed an application under Section 115(1) of the Code of Civil Procedure being Civil Revision No. 12232 of 2021 before this Court. Upon hearing the said Rule was made absolute by setting aside the impugned admission order and directed the learned District Judge, Faridpur to take a fresh hearing on the admission of the appeal and being so directed, on 25.05.2023 the learned District Judge, Faridpur admitted the appeal and again being aggrieved by and dissatisfied with the said admission order, the respondent No. 4 as petitioner again filed Civil Revision No. 673 of 2024 before this Court and on 25.02.2024 obtained Rule and an interim order of stay. The said Civil Revision is still pending before the Hon'ble High Court Division. The fate of the decree dated 28.10.2001 passed in Title Suit No. 09 of 2001 by dint of which title deed of the present respondent no. 4 is yet to be

determined. On the other hand, genuineness of the deed of sale of the petitioner dated 08.07.1996 is disputed by the respondent no. 4 which can not be determined in these summary proceedings.

Under the facts and circumstances of the case as stated above we think the question of right title and interest of the property is raised in these writ petitions which can not be determined in this summary proceeding under writ jurisdiction.

Considering the above facts we are of the view that title of the property in question involved in the instant writ petition is to be determined by the competent civil court first and until and unless the question of title of the property in question is determined by the competent civil court first, the property should not be released either in favour of plaintiff of Suit No. 45 of 2012 or in favour of plaintiff of Suit No. 598 of 2012.

Thus, we are inclined to dispose of the writ petitions with above observation.

Resultantly, with following directions both the Rule Nisi are disposed of.

The Deputy Commissioner, Faridpur is directed to release the property in question to the party in whose favour the title of the property is determined in the pending legal battle between the writ

petitioner and the respondent No. 4 arising out of the decree passed in Title Suit No. 09 of 2001.

However, all the respective parties are directed to maintain status-quo in respect of possession of the property in question till release of the property by the Deputy Commissioner, Faridpur.

There will be no order as to cost.

Let a copy of this judgment immediately be transmitted to the respondents at once.

A.F.M. Saiful Karim, J:

Fatema Najib, J:

I agree.

Fatema Najib, J: