

IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(CIVIL APPELLATE JURISDICTION)

Present

Mr. Justice Md. Riaz Uddin Khan

And

Ms. Justice Urmee Rahman

First Appeal No. 300 of 2007

IN THE MATTER OF:

A.K.M. Fazlul Haque and others

... Plaintiff-Appellants

-Versus-

Secretary, Baitul Aman Co-operative Housing Society Ltd and
others

... Defendant-Respondents

Mr. Md. Iftekher Ahmed, Advocate

... For the Appellants

None

... For the respondents

Judgment on: 18.08.2026

Md. Riaz Uddin Khan, J:

This First Appeal has been directed against the judgment and decree dated 03.07.2007 (decree signed on 09.07.2007) passed by the Land Survey Tribunal, Dhaka in Land Survey Tribunal Case No. 215 of 2006 allowing the application for rejection of the plaint.

Mr. Iftekher Ahmed, the learned advocate appearing for the appellants at the very outset submits that this appeal has been filed in wrong forum as at that time though law provides for appellate tribunal but the Government did not assign any Judge to function as the Land Survey Appellate Tribunal by publishing any Gazette Notification. In the meantime, on 11.07.2023 the law has been amended by the State Acquisition and Tenancy (Amendment) Act, 2023 and the Government has also subsequently published an official Gazette on 23.08.2023 establishing the Land Survey

Appellate Tribunal. The learned advocate submits that in such circumstances this appeal being filed in wrong forum may be disposed of giving the appellants a chance of filing appeal in proper forum.

We have heard the learned advocate for the appellants, perused the memorandum of appeal as well as the impugned judgment and decree passed by the Land Survey Tribunal. We have also gone through the State Acquisition and Tenancy (Amendment) Act, 2023 and the SRO No.255-Ain/2013 dated 23.08.2023.

It appears that the appellants as plaintiffs filed Land survey Tribunal Case No. 215 of 2006 before the Land Survey Tribunal, Dhaka for correction of the Record of Rights and the Land Survey Tribunal upon an application filed by the defendants for rejection of plaint under Order-VII, Rule-11 of the Code of Civil Procedure allowed the same by rejecting the plaint vide the judgment and decree dated 03.07.2007. The plaintiffs challenging that judgment and decree preferred this First Appeal before this Court which was registered on 20.09.2007 within statutory limitation period. At the relevant time as per section 145B of the State Acquisition and Tenancy Act, 1950 appeal lied only before the Land Survey Appellate Tribunal against any judgment, decree or order passed by the Land Survey Tribunal but the government did not establish any Land Survey Appellate Tribunal. The plaintiffs filed this appeal before this Court which is clearly beyond the statutory provision as this Court is neither the Land Survey Appellate Tribunal nor can replace it without statutory provision sitting in civil jurisdiction. Hence, this first appeal cannot be heard by this Court.

Be that as it may, meanwhile, the State Acquisition and Tenancy (Amendment) Act, 2023 has been passed creating a new appellate forum by amending section 145B and by official Gazette dated 23.08.2023 the Government has assigned Judges, i.e amongst the District Judges, to function as the Land Survey Appellate Tribunals.

In such facts and circumstances and for ends of justice, we are of the view, the appellants should be afforded an opportunity to prefer appeal before the appropriate forum, i.e the Land Survey Appellate Tribunal, Dhaka against the impugned judgment and decree.

If the plaintiff-appellants file appeal before the Land Survey Appellate Tribunal within reasonable time from receipt of this judgment, it shall consider the application for condonation of delay in preferring appeal keeping in mind that the appellants filed this appeal before this Court in a wrong forum as there was no appellate forum at the time of filing the appeal.

In such view of the matter, this first appeal is **disposed of**. There will be no order as to cost.

Send down the Lower Court Records along with a copy of this judgment at once.

Urmee Rahman, J:

I agree.