

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

Present:

Mr. Justice S M Kuddus Zaman

CIVIL REVISION NO.6034 of 2024.

In the matter of:

An application under section
115(1) of the Code of Civil
Procedure.

And

Md. Zahangir Alam and others

...Petitioners

-Versus-

Ziaul Haque and others

...opposite parties

Mr. Md. Harun Al Kaioum with

Mr. Md. Sultan Uddin with

Mr. Micolos Chakma, Advocates

...For the petitioners

Mr. Humayun Kabir with

Ms. Tasmin Akter with

Ms. Fahima Akter with

Mr. Ismail Hossain with

Mr. Amin Hossain Gazi, Advocates

.For the opposite party Nos.1-12.

Mr. Asaduzzaman, Attorney General with

Mr. Saifur Rahman, DAG with

Mr. Moshihur Rahman, AAG with

Mr. Mizanur Rahman, AAG with

Mr. Arifur Rahman, AAG

**..For the proforma opposite party
Nos.26-29.**

Heard on: 26.06.2025.

Judgment on: 20.07.2025.

This Rule was issued calling upon the
opposite party Nos.1-12 to show cause as to why
the impugned judgment and decree dated 01.10.2024
passed by the learned Judge of the Land Survey
Appellate Tribunal, Chandpur in Land Survey
Appeal No.13 of 2024 disallowing the appeal and

thereby affirming those dated 09.01.2019 passed by the Land Survey Tribunal, Chandpur in Land Survey Tribunal Suit No.2072 of 2015 decreeing the suit should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the opposite parties as plaintiffs instituted above suit to the Land Survey Tribunal Chandpur for declaration that B.S. khatian Nos.1359 and 439 in the names of the defendants are unlawful and for creation of a new khatian for 19 decimal land in the names of the plaintiffs out of 31 decimal land of above two B.S. khatians. It was alleged that above property belonged to Ramjan Ali @ Ranjon Ali, Alemjan and Nekjan in whose names C.S. khatian No.1046 was correctly prepared. Above Ramjan Ali died leaving three sons Ansar Ali, Monsur Ali and Golam Mohammad and two daughters Taramon and Paktunnessa as heirs. Above Golam Mohammad acquired the shares of Taramon and Paktunnessa and was in possession in 19 decimal land which he transferred to his daughter Zinnatunnessa by registered deed of gift dated 29.12.1970. Above Zinnatunnessa died leaving the plaintiffs as heirs who are processing above land by

constructing dwelling house. But above land has been erroneously recorded in the names of the defendants in above two B.S. khatians.

Defendant Nos.1-32 contested above suit by filing a joint written statement alleging that Ansar Ali and Monsur Ali two sons and heirs of Ramjan Ali transferred 31 decimal land to Shomsher Ali by registered deed of exchange dated 27.01.1932 who in his turn transferred the same to Abdur Rahman and Abdul Jabbar by two registered deeds of exchange dated 08.03.1932 and their names were rightly recorded in S.A. khatian No.824. Defendants are successive heirs of above Abdur Rahman and Jobbar and they are in possession in the dwelling house in above land and B.S. khatians No.1539 and 439 were correctly prepared.

At trial plaintiffs and defendants examined two witnesses each. Documents produced and proved by the plaintiffs were marked as Exhibits No.1-6 and those of the defendants were marked as Exhibits No.Ka-Da.

On consideration of facts and circumstances of the case and evidence on record the learned Judge of the Land Survey Tribunal decreed above suit.

Being aggrieved by above judgment and decree of the Land Survey Tribunal above defendants as appellants preferred Land Survey Appeal No.13 of 2024 to the land Survey Appellate Tribunal, Chandpur who dismissed above appeal and affirmed the judgment and decree of the Tribunal.

Being aggrieved by and dissatisfied with above judgment and decree of the Land Survey Appellate Tribunal above appellants as petitioners moved to this court with this civil revisional application under section 115(1) of the Code of Civil Procedure and obtained this rule.

Mr. Md. Harun Al Kaioum learned Advocate for the petitioners submits that undisputedly defendants are heirs of S.A. recorded tenant Abdur Rahman and Abdul Jobbar. Above Rahman and Jobbar acquired 31 decimal land by registered deed of exchange dated 08.03.1932 from Samser Ali who acquired the same from Ansar Ali and Monsur Ali two sons of C.S. recorded tenant Ramjan Ali. Above Rahman and Jobbar were in possession in above land by constructing dwelling house and above two B.S. khatians were correctly prepared in the names of the defendants. But the learned Judge of the Land Survey Appellate Tribunal

totally failed to understand the facts and circumstances of the case and affirmed the unlawful judgment and decree of the Land Survey Tribunal which is not tenable in law. As far as maintainability of this civil revision under Section 115(1) of the Code of Civil Procedure is concerned the learned Advocate submits that the Judge of the Land Survey Tribunal has been appointed from among the Joint District Judges and proceedings before above Tribunal has been designated as suit and a decree is drawn from the judgment of the Land Survey Tribunal and the Tribunal records evidence and determines title and possession in immovable property and makes correction of B.S. khatian on the basis of title and possession. The impugned judgment and decree has been passed by a District Judge as the Judge of the Land Survey Appellate Tribunal. All above facts show that above Land Survey Tribunal and Land Survey Appellate Tribunal are, in fact, civil courts whose judgment and decree is subject to revisional jurisdiction of this court under section 115 of the Code of Civil Procedure, 1908.

On the other hand Mr. Humayun Kabir learned Advocate for the opposite parties submits that Golam Mohammad a Malik of S.A. khatian No.824

transferred 19 decimal land to his daughter Zinatunnessa by registered deed of gift dated 29.12.1970. Above Zinatunnessa possessed above land by constructing dwelling house and after her demise the defendants as her heirs are in possession in above house. But the Surveyors most illegally recorded above land in the names of the defendants in above two B.S. khatians. On consideration of above facts and circumstances of the case and materials on record the learned Judge of the Land Survey Appellate Tribunal rightly dismissed the appeal and affirmed the lawful judgment and decree of the Tribunal and directed for creation of a new khatian for the plaintiffs for 19 decimal land out of above two B.S. khatians which calls for no interference.

Mr. A. K. M. Asaduzzaman learned Attorney General entered appearance in this civil revision and made a detailed submission touching the objectives for establishment of the Land Survey Tribunal and Land Survey Appellate Tribunal, jurisdiction and method of work of above Tribunals and jurisdiction of civil court and maintainability of a civil revision to this court under section 115 of the Code of Civil Procedure

against a judgment and decree passed by the Land Survey Appellate Tribunal.

After final publication in official Gazette a huge number of errors in the entry or omission in entry in B.S. khatians were found. The Revenue Officer having no jurisdiction for correction of above errors or omissions legislature for the sole purpose of correction of above errors, mistakes or omissions in BS khatians introduced Act No.IX of 2004 to the State Acquisition and Tenancy Act, 1950 and established the Land Survey Tribunal and the Land Survey Appellate Tribunal. Above Tribunals are not civil courts and they have no jurisdiction to determine title or possession in immovable property. Section 145E of the State Acquisition and Tenancy Act, 1950 gives finality to the judgment and decree passed by the Land Survey Appellate Tribunal. This court needs to employ its valuable time for hearing of civil revisions involving legal disputes as to right to office or right to property instead of examining errors or omissions in the entry of BS khatians.

The learned Attorney General points out that originally section 145B(3) of the Act provided for appointment of Judges of the Land Survey Appellate Tribunal from among the persons who are

or have been Judges of the High Court Division and Section 145C of the Act provided for appeal to the Appellate Division from a judgment and decree of the Land Survey Appellate Tribunal. The legislature rightly realized the futility of sending disputes relating to erroneous entry or omission in entry in B.S khatina to the Apex Court of the Republic and amended sections 145B and 145C of the Act and provided for appointment of Judges of the Land Survey Appellate Tribunal from among the District Judges and finality has been given to the judgment and decree passed by the Land Survey Appellate Tribunal. As such a civil revision under section 115(1) of the Code of Civil Procedure, 1908 challenging the legality of a judgment and decree passed by the Land Survey Appellate Tribunal is not tenable in law.

The learned Attorney General lastly submits that the impugned judgment and decree clearly shows the usurpation of jurisdiction of civil court by the Land Survey Tribunal and Land Survey Appellate Tribunal and the ends of justice will be met if a guideline is issued for the learned Judges of the Land Survey Tribunal and Land Survey Appellate Tribunal clarifying the limits of their jurisdiction and the manner and method

of disposal of suits arising out of the final publication of the last revised record of rights and appeal from the judgment and decree of the Land Survey Tribunal.

I have considered the submissions of the learned Advocates for the respective parties and the learned Attorney General and carefully examined all materials on record.

It is admitted that above property originally belonged to Ramjan Ali who died leaving three sons, Ansar Ali, Monsur Ali and Golam Mohammad and two daughters Taramon and Paktunnessa. Admittedly plaintiffs are heirs of Zinatunnessa, a daughter of Golam Mahammad and defendants are heirs of Abdur Rahman and Abdul Jobbar in whose names S.A. khatian No.824 was recorded. Plaintiffs claim that Zinatunnessa acquired 19 decimal land from her father Golam Mohammad by registered deed of gift dated 29.12.1970. Defendants, on the other hand, claim that Ansar Ali and Monsur Ali two sons of Ramjan Ali transferred 31 decimal land to Shomsher Ali by two registered deed of exchange dated 27.01.1932 who in his turn transferred above land to Abdur Rahman and Abdur Jobbar, predecessors of the

defendants by registered deed of exchange dated 08.03.1932.

It turns out that disputed two B.S. khatians were prepared in the names of the defendants on the basis of S.A. khatian No.824 and registered deed of exchange dated 08.03.1932 and the plaintiffs do not dispute correctness of above khatians and defendants title and possession in 12 decimal land. Plaintiffs claim 19 decimal land out of 31 decimal of above two BS khatians.

The learned Judge of the Land Survey Tribunal framed an issue whether the plaintiffs have succeeded to prove their title and possession in above land and on consideration of oral and documentary evidence held that the plaintiffs title and possession in 19 decimal land out of 31 decimal was proved and on the basis of above findings ordered for deduction of 19 decimal land out of 31 decimal of above two BS khatians. The learned Judge of the Tribunal also held that S.A. khatian No.824 was erroneous.

The length and nature of pleadings of above suit, framing of issue and determination of title and possession appears to be identical to the modus operandi of civil court in determination of title in immovable property. Section 145A(1) of

the State Acquisition and Tenancy Act, 1950 (hereinafter referred to as the Act) designates the proceedings before a Land Survey Tribunal as suit and decree is drawn from a judgment of above Tribunal under section 144B of the Act. The parties to a proceeding before the Tribunal has been designated as plaintiffs and defendants. But despite all above features of the proceedings a Land Survey Tribunal is not a civil court.

A civil court is empowered to try all suits of civil nature unless its jurisdiction is specifically barred. A suit of civil nature means any suit involving disputes relating to right to property or right to office and right to property includes right to ownership and possession in immobile property. The jurisdiction for determination of title and possession in immovable property falls in the exclusive domain of civil court. On the other hand a Tribunal is a judicial or quasi judicial body established by law to hear and determine claims or disputes of specific class or type. Section 145A of the Act mentions that sole jurisdiction of the Land Survey Tribunal is to deal with the suits arising out of final publication of the last revised record of rights under section 114 of the Act,

which is B.S. khatians. The Land Survey Appellate Tribunal is empowered only to hear appeals from the judgment and decree of the Land Survey Tribunal. The Land Survey Tribunal being not a civil court it has no jurisdiction to entertain a suit involving dispute as to title and possession in immovable property.

The purpose of land survey is to prepare a public record as to the location, nature, area, ownership and quantity of rent of each and every piece of land so that the land may be identified, owners may be recognized, land disputes minimized, rents may be smoothly realized and above record of rights may be used for other official works. After promulgation of the Bingle Tenancy Act, 1885 a comprehensive and physical land survey under above Act was started in 1887 and concluded in 1940. The record of rights prepared through above survey was designated as cadastral survey khatian or C.S. khatian. After the state acquisition of rent receiving interest in 1950 a revision of above record of rights was held under section 17 of the Act not by field survey but by desk works in the revenue office. The objectives of above revision of record of rights were to prepare a compensation rent roll,

recognize the tenants as maliks and fixation of equitable rents. The record of rights or khatian prepared through above survey is called State Acquisition khatian or S.A. Khatian. After final publication of above khatian in the official gazette huge errors in entry and omissions in entry of S.A. khatians were found. The Government for correction of above errors in S.A. khatians inserted section 143A to the Act by Ordinance No.IIX of 1967. Above provision empowered all civil courts having jurisdiction to entertain a suit for possession to order necessary corrections of S.A. khatians through a summary procedure. All District Judges were authorized to hear appeals from the judgment of above civil Judges. After disposal of nearly all cases seeking correction of S.A. khatians section 143A of the Act was deleted by Ordinance No.54 of 1975.

The Bangladesh survey was started in 1970 by physical field survey of each and every piece of land and a record of rights namely B.S. Khatian was prepared and finally published in the official gazette under section 144 of the Act. Despite preparation through physical field survey a huge number of allegations as to errors in

entry or omission in entry in BS khatians emerged and to redress above grievances Section 145A to 145I were inserted in the Act by Act No.IX of 2004. The Land Survey Tribunal was established for "disposing of suits arising out of the final publication of last revised record of rights". While section 145B of the Act established the Land Survey Appellate Tribunal to hear and dispose of appeals from the judgment and decree of the Land Survey Tribunal. Section 145A of the Act did not empower the civil court for correction of errors in entry or omission in entry of the B.S. khatians as was done by now deleted section 143A of the Act nor the Land Survey Tribunal or Land Survey Appellate Tribunal were declared as civil court.

The Land Survey Tribunal and Appellate Tribunal have in the impugned judgment and decree unlawfully exceeded their area of works and usurped the jurisdiction of civil court by illegally determining the title and possession of the plaintiffs in above land which is not tenable in law.

The Land Survey Tribunal has no jurisdiction to entertain any suit involving any dispute as to the legality or correctness of S.A. khatian. On

the contrary the Land Survey Tribunal is required to accept the S.A. Khatian as flawless previous record of rights in view of deletion of section 143A by Act No.54 of 1975. The B.S. khatian was prepared on revision of previous record of rights or S.A khatians on the basis of field survey and outcome of objection case and appeal against the draft B.S. khatian under Rules 32 and 33 of the State Acquisition Rules, 1951.

The Tribunal needs to accept the S.A Khatian as baseline and examine the allegation of errors or omission in entry in B.S khatian on the basis of the S.A. khatian. The B.S. khatian must be referable to the S.A. khatian and should have been prepared in the names of the malik or heirs of the Malik of S.A. khatian or transferees from above Malik or his heirs. If any entry in B.S khatian fails to pass above test the same be declared as erroneous and unlawful and the Tribunal shall pass a decree for correction of above khatian.

Any person still aggrieved by an entry or omission of entry in the S.A. khatian needs to realize that after gazette publication of B.S. khatian the S.A. khatian has become a previous or past record of rights and there is no provision

for correction of erroneous S.A. khatian by a civil court after deletion of section 143A of the Act by Ordinance No.54 of 1975. But if the title or possession of any person in immoveable property is denied or threatened on the basis of erroneous S.A. khatian or any other erroneous document the aggrieved person is entitled to move to the relevant civil court with an appropriate suit for title and possession.

The Land Survey Tribunal should emphasis on disposing of suits relating to erroneous entry or omission of entry in the B.S. khatian on the basis of evidence on affidavit. The lengthy examination and cross examination of four witnesses and analysis of a series of documents by the Land Survey Tribunal for determination of title of the plaintiff was unnecessary and caused wastage of court time.

A khatian or record of rights is not a deed of title. A khatian or record of rights carries a presumption as to possession of the person whose name stands in the khatian. But above presumption as to possession is not static nor a record of rights or khatian is conclusive prove of possession. In fact mere erroneous record of rights does not require the rightful owner to

move to the court unless his title or possession is threatened on the basis of erroneous record of rights or khatian.

Any person aggrieved by a judgment and decree of the Land Survey Appellate Tribunal is entitled to move to the competent civil court with an appropriate suit for declaration of title and confirmation or recovery of possession or partition to redress his grievance.

The amendment of section 145C of the Act for stopping appeal to the Appellate Division and giving finality to the judgment of the Land Appellate Tribunal show that the legislature did not want to bring the disputes involving error in entry or omission in entry of B.S. khatian to the Supreme Court. This court has no jurisdiction to entertain a civil revision under section 115(1) of the Code of Civil Procedure challenging the legality and propriety of a judgment and decree passed by the learned Judge of the Land Survey Appellate Tribunal.

In above view of the facts and circumstances of the case and materials on record I hold that the learned Judge of the Land Survey Tribunal clearly usurped the jurisdiction of civil court and most illegally adjudged the B.S. and S.A.

khatians of the defendants as erroneous on the basis of erroneous determination of title and possession of the plaintiffs in 19 decimal land and the learned Judge of the Land Appellate Tribunal most illegally affirmed above unlawful judgment and decree of the Land Survey Tribunal and this court has no jurisdiction to entertain the instant civil revision under section 115(1) of the Code of Civil Procedure against above judgment and decree of the Land Survey Appellate Tribunal.

The learned Judges of the Land Survey Tribunal and the Land Survey Appellate Tribunal shall keep in mind and follow the directions mentioned below while disposing of suits or appeals arising out of the last revised record of rights or B.S. khatians:

(1) The Land Survey Tribunal and Land Survey Appellate Tribunal are not civil courts and above Tribunals have no jurisdiction to determine title and possession in immovable property;

(2) The sole jurisdiction of the Land Survey Tribunal is to detect errors in entry or omission in entry in the last revised record of rights prepared under section

144 of the Act or BS khatians and pass an appropriate order;

- (3) S. A. khatian is the immediately past or previous record of rights prepared and published under Chapter IV, section 17 of the Act and the Land Survey Tribunal has no jurisdiction to entertain any suit challenging the legality or correctness of S.A kahtian;
- (4) If title and possession of any person is threatened on the basis of erroneous entry or omission in entry of previous S.A. khatian he is at liberty to move to the competent civil court with an appropriate civil suit for declaration of title and confirmation or recovery of possession or partition.
- (5) The Land Survey Tribunal and Land Survey Appellate Tribunal shall accept the S.A. khatian as flawless past record of right and use S.A. khatian as baseline for detection of error in entry or omission in entry of B.S. khatian.
- (6) The Land Survey Tribunal shall give emphasis on receiving evidence on

affidavit and shall record oral evidence only in truly deserving suits.

- (7) Any person aggrieved by the judgment and decree of the Land Survey Appellate Tribunal shall be at liberty to move to the competent civil court with an appropriate civil suit for established of title and confirmation or recovery of possession or partition.

With above observations and directions this rule is disposed of.

Let a copy of this judgment be forwarded to all the learned Judges of the Land Survey Tribunal and the learned Judges of the Land Survey Appellate Tribunal at once.

Let the lower Court's record be transmitted to the Court Tribunal concerned at once.