

In the Supreme Court of Bangladesh
High Court Division
(Special Original Jurisdiction)

Present:

**Mrs. Justice Fatema Najib
and
Mr. Justice Md. Hamidur Rahman**

Writ Petition No. 13296 of 2021

In the matter of:

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

In the matter of:

Mosammat Ajufa Begum
---Petitioner.

-Versus-

Bangladesh, represented by the
Secretary of the Ministry, Ministry of
Land, Bangladesh Secretariat, Dhaka
and others.

...Respondents.

Mr. Mantu Chandra Ghosh, Advocate.

...For the petitioner.

Mr. Reja-E-Rabbi Khandoker, Advocate
with

Mrs. Meherunnesa, Advocate and
Mr. Syed Selim Jahan, Advocate.

...For the respondent No. 5.

Mr. Mohammad Osman Chowdhury, DAG
with

Mr. Akhtar Hossain Md. Abdul Wahab, DAG
with

Mr. S.M Emamul Musfiqur, AAG with
Ms. Tamanna Sultana, AAG with
Ms. Khandaker Asma Hamid, AAG with
Mr. Imrul Kayes Rana, AAG

...For the respondents.

Heard on:21.08.2025

Judgment on: 28.08.2025

Md. Hamidur Rahman, J:

On an application under Article 102 of the Constitution of the People's Republic of Bangladesh Rule was issued in the following terms:

“Let a Rule Nisi be issued calling upon the respondent No. 4 to show cause as to why he should not be directed to execute the order dated 26.01.2014 issued by the Deputy Secretary of the Ministry of Land, Legal Branch No. 4 in Reference No. 31.00.0000.045.68.053.2011-25 for the mutation of the land in C.S. Khatian No. 5881 S.A. Khatian No 1385, being C.S. Plot No. 3/61-234, 360-61. S.A. Plot No. 4523. R.S. Khatian No. 4280, Plot No. 6524 City Plot No. 5386. Khatian No. 1/, being 31.04 decimals of land and/or pass such other or further order or orders as to this Court may seem fit and proper”.

The case of the petitioners as set out in the Writ Petition in short, is follows:

The petitioner is the owner of the scheduled land by way of Hebad deed No.5682 dated 17.08.1914 from Hasibur Rahman who got the same successively from Kumudini Talukder who is the original owner of the land in question. The respondent No.4 recorded the land in question in R. S. Khatian in the name of Deputy Commissioner, Dhaka wrongly.

The respondents published the land in the "kha" scheduled by reference No. 31.00. 0000. 045.53.065.12-615 dated 21.11.2013 and they have also permitted to release the

same from the "Kha" scheduled. The petitioner submitted an application before the respondent No.1 for mutation the land in question in her name and the office of the respondent No.1 received the same on 11.10.2013. The respondent No.1 directed the respondent No.4 to mutate in respect of the land in question. But getting no reply the petitioner filed the instant writ petition.

Respondent No.5 filed an affidavit-in-opposition controverting the statements mentioned in application of writ application which are as follows:

- a. the disputed land in question was enlisted in the ka list of the Abandoned property in Bangladesh Gazettee dated 23.09.1986.
- b. Subsequently, the respondent no.2 decided to sale the same in favour of Raihana Shafi (Mother of respondent No.5) as Shaheed family for an amount of Tk.27,86,042/=.
- c. Mother of respondent No.5 paid down payment and also was paying the rest amount in yearly installment as per sale agreement.
- d. Meanwhile, one Abul Hasham and Monir Ahmed filed a case being No.14 of 1991 before court of settlement claiming the land in question as their own. The Government contested the case. After hearing the said case was dismissed.
- e. After seven years of passing the judgment dated 31.10.1993 in settlement case No.14 of 1991, one

Hasibur Rahman filed an application for review of the judgment and order dated 31.10.1993. On hearing Court of settlement rejected the application by order dated 10.10.2000.

- f. Being aggrieved, Hasibur Rahman filed two Writ Petition Nos. 5864 of 2000 and 6442 of 2008 against the judgment and order dated 31.10.1993 and 10.10.2000. On hearing Writ Petition No.5864 of 2000 was made absolute and Writ Petition No.6442 of 2008 was disposed of with direction to the court of settlement to dispose of afresh by order dated 19.05.2011.
- g. Feeling aggrieved by judgment and order dated 19.05.2011 mother of respondent No.5 filed Civil Petition for Leave to Appeal No.1641 of 2021 and Civil Petition for Leave to Appeal No.1640 of 20121 before Appellate Division . On hearing Appellate Division directed the mother of respondent No.5 to file Regular Appeal.
- h. Mother of respondent No.5 filed Regular Appeal No.202 of 2014 and 203 of 2014. On the other hand Government filed Civil Petition For Leave to Appeal No.1257 of 2023 and Civil Petition for Leave to Appeal No.1258 of 2023 against the judgment and order dated 19.05.2011 passed by High Court Division in Writ Petition No.5824 of 2000 and 6442 of 2008.
- i. Thereafter, upon hearing Appellate Division allowed the Civil Appeals and disposed of Civil Petition for leave to Appeals in the light of Civil Appeals by order dated 17.05.2023.

- j. In the meantime the mother of respondent No.5 died leaving behind 2 sons, 2 daughters and one grandson (respondent No.5).
- k. Respondent no.5 filed an application to the respondent no.5 requesting to execute the deed in favour of the heirs of respondent no.5. Then he became aware of the instant Writ Petition.
- l. The respondents no.5 filed an application for addition of party in the instant Writ Petition which was allowed.
- m. The land in question was declared abandoned lawfully and the same has been validly included in the ka list of the Abandoned Property list in serial no.118 of the Gazette dated 23.09.1986 and has been sold and handed over the possession to the mother of the respondent no.5.

Mr. Mantu Chandra Ghosh, the learned Advocate appearing on behalf of the petitioner submits that the petitioner knowingly about the matter but no forum was available to agitate her grievance and filed the instant writ petition.

Mr. Reja-E-Rabbi Khandoker, the learned Advocate appearing on behalf of the respondent No. 5 submits that the matter was resolved by the Court of Settlement that the said property is abandoned property and under control of the Government. By suppressing all material

facts the petitioner filed the instant writ petition to delay the mutation process of the respondent No. 5 who is added respondent in the instant writ petition.

We have gone through the writ petition, affidavit-in-opposition and other material on records.

It appears from the Annexure-1a to the affidavit-in-opposition and Annexure 19 of the said affidavit-in-opposition that the Appellate Division of the Supreme Court of Bangladesh in Civil Appeal Nos. 202-2023 of 2024 vide its judgment and order dated 17.05.2023 settled the issue regarding the said property. By suppressing all material facts the petitioner filed the instant writ petition seeking direction to mutate her name to the concerned authority. We also observed that there are anomalies with the statements and Annexures in the instant Writ Petition.

So, we are of the view that by suppressing order of the Hon'ble Appellate Division and other material of facts the petitioner filed the instant writ petition which has no legal basis. It is established Principle of law that fraud vitiates everything.

In view of above discussion we find no merit in the instant Rule and Rule is liable to be discharged.

In the result, the Rule is discharged without any order as to costs.

The status-quo order granted earlier by this Court is hereby vacated.

Let a copy of the judgment and order be communicated at once to all concerned.

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(Md. Hamidur Rahman, J)

Fatema Najib, J:

I agree.

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(Fatema Najib, J)