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IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)

WRIT PETITION NO. 5075 Of 2023

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

Modhusudan Biswas @ Palash Biswas  
... Petitioner

-VERSUS-

The Land Survey Tribunal, Khulna and others.

... Respondents

Mr. Khan Ziaur Rahman, Advocate

... For the petitioner

Mr. Shaikh Mohammad Zakir Hossain, Advocate.

... For the respondent Nos. 8-9.

Heard & Judgment on: 10.03.2024

Present:

Mr. Justice Md. Khasruzzaman  
&  
Mr. Justice K M Zahid Sarwar

K M Zahid Sarwar, J:

By filing an application under Article 102 of the Constitution of the  
People's Republic of Bangladesh, the petitioner has challenged the legality  
of the Judgment and Decree dated 21.08.2022 passed by the learned Judge,  
Land Survey Tribunal, Khulna in Land Survey Tribunal Suit No. 1068 of  
2018.

“দেশপ্রেমের শপথ নিন, দুর্নীতিকে বিদায় দিন”



The petitioner felt aggrieved by the judgment and decree of the Land Survey Tribunal, from which no appeal was preferred, challenging the judgment and decree as the Land Survey Appellate Tribunal had not yet been established. However, the judgment and decree was appealable under Section 145B(5) of the State Acquisition and Tenancy Act, 1950 and, therefore, the petitioner should have appealed to the Land Survey Appellate Tribunal.

The main contention of the Writ Petition is that as the appellate forum, the Land Survey Appellate Tribunal, has not been established, the petitioner has no other alternative but to file this Writ Petition.

We heard from the learned Advocates and perused the Writ Petition, its annexures, and other materials on record placed before us.

It appears that till the filing of this writ petition, no Land Survey Appellate Tribunal was established. But at the time of hearing of the Rule, in the meantime, Gazette Notification of the State Acquisition and Tenancy (Amendment) Act, 2023 (Act No. XXIV of 2023) has been published for forming a Land Survey Appellate Tribunal by amending Section 145B of the State Acquisition and Tenancy Act, 1950, and the Government has decided to empower the District Judge as the judge of the Land Survey Appellate Tribunal of the District. Accordingly, the petitioner is at liberty to appeal before the Land Survey Appellate Tribunal as constituted under the Act.



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It also appears from the record that some factual aspects are involved with the case, and the Land Survey Appellate Tribunal is the appropriate forum to adjudicate the matter.

In view of the above discussion, justice would be best served if the rule is disposed of in some directions without considering the merit of the case.

Accordingly, the Rule is disposed of with the following directions:

- i. The petitioner is at liberty to file an appeal before the Land Survey Appellate Tribunal to be set up by the law;
- ii. The petitioner may prefer an appeal before the Land Survey Appellate Tribunal within three months from the date of receipt of a copy of this order; and
- iii. The parties are directed to maintain the status quo regarding possession of the land in question for three months from the date or till filing of an appeal, whichever is earlier.

However, there shall be no order as to costs.

The parties can take back the annexures through their Advocate by replacing the photocopies.

Communicate the judgment and order to the court concerned at once.

K M Zahid Sarwar

Md. Khasruzzaman, J:

I agree.

Md. Khasruzzaman.

Typed by: Moidul 30.05.24.

Read by: 30-5-24

Exam. by: 30-5-24

Readied by: 30-5-24

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“দেশ ৩০ মে ২০২৪ মরণ পথ নিন, দুর্নীতিকে বিদায় দিন”  
এ.এস.এম. সাইফুল আল হোসেন  
সুপারিনটেন্ডেন্ট

প্রত্যায়িত অধিকার প্রতিপাদন

30-5-24

সহকারী রেজিস্ট্রার

বাংলাদেশ সুপ্রীম কোর্ট, হাইকোর্ট বিভাগ  
১৮৭২ ইং সনের ১নং আইনের  
অধীনে ক্ষমতা প্রাপ্ত।

স্বাক্ষরিত কর্মকর্তা