

LEX/BDHC/0154/2016

Equivalent Citation: 2017 37 BLD 1

**IN THE SUPREME COURT OF BANGLADESH (HIGH COURT DIVISION)**

Writ Petition No. 686 of 2013

Decided On: 22.11.2016

Appellants: **Syeda Razia Akter**  
**Vs.**

Respondent: **The Secretary, Ministry of Housing and Public Works and Ors.**

**Hon'ble Judges:**

*Quamrul Islam Siddique and Sheikh Hassan Arif, JJ.*

**Counsels:**

*For Appellant/Petitioner/Plaintiff: Shah Monjurul Hoque, Md. Zakaria Haider, Kazi Akhtar Hosain, Palash Chandra Roy, Abu Torab Ali, Md. Hamidur Rahman and Syeda Nasrin, Advocates*

*For Respondents/Defendant: Md. Mokleshur Rahman, D.A.G., Farida Yeasmin and Salma Rahman, A.A.Gs.*

**JUDGMENT**

**Quamrul Islam Siddique, J.**

**1.** In this application under Article 102 of the Constitution of the People's Republic of Bangladesh, a Rule Nisi was issued calling upon the respondents to show cause as to why the inaction/failure of the respondents to transfer plot No. 24, Road No. 1, Pallabi, Mirpur, Dhaka in favour of the petitioner through registered sale/permanent lease deed by receiving the rest consideration money for the land as per the valuation at the rate fixed by the government in the year 1972 should not be declared illegal without lawful authority 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.

**2.** At the time of issuance of the Rule, parties were directed to maintain status-quo in respect of possession of the land in question for a period of 06(six) months. The order of status-quo was extended from time to time.

**3.** The facts leading to the issuance of the Rule, in brief, are: The petitioner is the wife of martyr Dr. Hasibur Rahman, who sacrificed his life for the independence of Bangladesh. For the purpose of rehabilitating the families of the martyrs of 1971, the Government decided to sell/transfer abandoned land and structures in their favour and accordingly, the Ministry of Defense issued clearance certificate to the persons who were eligible for obtaining such properties. The petitioner obtained such clearance certificate from the Ministry of Defense, vide Memo No. ১-জা-০/৮০/ডি-৮/অংশ-৯/০০৮ dated 07.08.1986 (Annexure-B). Thereafter, upon examining all papers and documents, the Government allotted a plot of land No. 24, Road No. 1, Pallabi, Mirpur, Dhaka in favour of the petitioner, vide memo No. শা-এপি- ১১/৭২/৮২/৪৭ dated 21.01.1995 under the signature of respondent No. 6 (Annexure-C). Accordingly, on demand of the respondents, the petitioner deposited Tk. 15,000/-, vide Treasury Challan dated 22.12.2002 and Tk. 3,64,880/-, vide Treasury Challan dated 01.03.2009 as rents of the said property. There was a decision that the government would sell the property in question in favour of the petitioner as she was the wife of

a martyr of our war of liberation. Though the respondents received rents from the petitioner, the respondents have not executed any registered sale/lease deed in favour of the petitioner. The petitioner made several representations before the respondents requesting them to receive the outstanding rents/consideration money and execute a registered deed in favour of the petitioner as per the valuation at the rate fixed by the government in 1972. But the respondents did not respond and execute any registered deed in favour of the petitioner. Under such compelling circumstances, the petitioner served notice demanding justice upon the respondents but no action was taken. In the meantime, the government has already transferred several plots of abandoned property to the family members of the other martyrs of our war of liberation by receiving consideration money at the rate fixed by the government in 1972. The petitioner being the wife of a martyr of our war of liberation, is legally entitled to get the land and structure situated at Plot No. 24, Road No. 1, Paliabi, Mirpur, Dhaka registered in her name on payment of outstanding rent/consideration money at the rate fixed by the government in 1972. The inaction/failure of the respondents is a clear violation of the policy of the government and such inaction of the government is clearly discriminatory and violative of the provisions of Articles 27, 28, 31 and 42 of the Constitution. The respondents have failed to transfer the land in question to the petitioner by registered deed despite repeated requests made to them. Finding no other alternative and efficacious remedy, the petitioner has moved this Court and obtained the instant Rule Nisi.

**4 .** Respondent No. 1 entered appearance by filing an affidavit-in-opposition controverting all the material statements made in the writ petition. The case of respondent No. 1, in short, is that the land in question was allotted to the petitioner on 21.01.1995 and the price of the same was assessed at Tk. 13,45,012/- only by the then Valuation Committee. The petitioner requested the respondents to assess the house rent at the rate fixed by the government in 1972, but the government took a decision to re-fix new rate for the land/structure to be given to the Shahid family and war injured freedom fighters. According to the new assessment, an arrear rent to the tune of Tk. 3,64,880/- was outstanding against the petitioner up to 30.06.2001. The petitioner got the allotment as a member of the Shahid family on 21.01.1995. The price of the land/structure in question was assessed as per the provisions of Rule 8 of the "বাংলাদেশ পরিত্যক্ত (শহর এলাকার বাড়ী) বিধিমালা-১৯৭২". But the present value of the property in question is much higher than earlier assessment and as such the petitioner is not entitled to get the land in question at the rate fixed by the Government in 1972. The present application is misconceived and mala fide and is liable to be discharged with costs.

**5 .** Mr. Shah Monjurul Hoque, learned Advocate appearing on behalf of the petitioner submits that the petitioner is the wife of a martyr of our war of liberation and that he sacrificed his life for the independence of our country. He further submits that the Father of the Nation by his letter dated 25.09.1974 appreciated and acknowledged the sacrifice made by the husband of the petitioner. He then submits that the government has allotted a plot of land, that is, Plot No. 24, Road No. 1, Pallabi, Mirpur, Dhaka in favour of the petitioner but the government has not executed any registered deed in favour of the petitioner. He again submit that the petitioner made several representations to the respondents to accept the consideration money at the rate fixed by the government in 1972, but the respondents have failed to accept the rest consideration money from the petitioner. He lastly submits that the petitioner being the wife of a martyr of our war of liberation is entitled to get the land registered in her name at the rate fixed by the government in 1972.

**6 .** Mr. Md. Mokleshur Rahman, learned Deputy Attorney General along with Ms. Farida Yeasmiu, learned Assistant Attorney General appeared for respondent No. 1.

Mr. Mokleshur Rahman, learned Deputy Attorney General, submits that the government allotted the land in question in favour of the petitioner on 21.01.1995 at the rate fixed by the government in 1972. He further submits that in the mean time the value of the land has increased many times and, as such, the petitioner is not entitled to get the land registered at the rate fixed by the government in 1972. He lastly submit that since the petitioner has failed to give the consideration money at the rate fixed by the government in 2011, the petitioner is not entitled to get the land in question registered in her name and that the Rule is liable to be discharged with costs.

**7.** We have perused the writ petition, its annexures, the affidavit-in-opposition, its annexures and other relevant papers.

**8.** It is admitted that the petitioner is the wife of a martyr of our war of liberation. The Father of the Nation in no uncertain terms has acknowledged and appreciated the sacrifice made by the husband of the petitioner, Annexure-A to the writ petition is the letter addressed to the petitioner by the Father of the Nation. We are tempted to quote the letter which runs as under:

শেখ মুজিবুর রহমান  
Dac-72/152  
dt. 25-09-74  
Sl. No. 2

প্রিয়

আমাদের স্বাধীনতা সংগ্রামে আপনার সুযোগ্য  
পুত্র/পিতা/স্বামী/মা/স্বামী/ আত্মত্যাগ  
করেছেন। আপনাকে আমি গভীর দুঃখের সাথে  
জানাচ্ছি আমার অন্তরিক সমবেদনা। আপনার  
শোক-সন্তপ্ত পরিবারের প্রতিও রইল আমার  
প্রাণঢাল সহানুভূতি।

এমন নিঃস্বার্থ মহান দেশ প্রেমিকের  
পিতা/পুত্র/স্বামী/মা/স্বামী/ হওয়ার গৌরব লাভ  
করে সত্যি আপনি ধন্য হয়েছেন।

প্রধান মন্ত্রীর জাণ ও কল্যাণ তহবিল থেকে  
আপনার পরিবারের সাহায্যার্থে আপনার সংশ্লিষ্ট  
মহকুমা প্রশাসকের নিকট ২০০০/- টাকা  
পাঠানো হলো। আপনি উক্ত টাকা মহকুমা  
প্রশাসকের নিকট থেকে সংগ্রহ করুন।

আমার প্রাণভরা ভালবাসা ও শুভেচ্ছা দিন।

মোসাঃ রিজিয়া আন্দের

স্বাঃ/

প্রযুক্তিঃ অধ্যাপক ইমামুর রসিদ

শেখ মুজিব

পোঃ মিয়াড়া (জামালপুর)

ময়মনসিংহ

(emphasis supplied)

**9.** After such appreciation and acknowledgment given by the Father of the Nation to the petitioner, we are of the opinion that the petitioner does not need any other documents to get the land registered in her favour.

**10.** The government has admitted that a piece of land, that is, Plot No. 24, Road No. 1, Pallabi, Mirpur, Dhaka has been allotted in favour of the petitioner. The allotment letter has been annexed as annexure-C. Annexure-B to the writ petition reveals that the Ministry of Defense has also given a certificate in favour of the petitioner to allot a land in her favour. Annexure-E to the writ petition reveals that the government has re-fixed the rate of the land to be given to the families of the martyr freedom fighter

and injured freedom fighters. It is admitted that the government gave allotment of the land in question to the petitioner in 1995 at the rate fixed by the government in 1972. Annexure-F series to the writ petition show that the petitioner made several representations to the respondents to execute a registered deed in her favour after accepting the rest consideration money at the rate fixed by the government in 1972. On 01.06.2006, the petitioner first submitted her representation to the then Minister, Ministry of Housing and Public Works. On 29.04.2007, the petitioner submitted her second representation to the then Adviser, Ministry of Housing and Public Works, on 07.04.2009 she made the third representation to the then State Minister, Ministry of Housing and Public Works and on 23.12.2009 the petitioner made her 4th representations to the then State Minister for Housing and Public Works to accept the rest consideration money and register sale deed in her favour. But they did not take any action in respect of the representations made by the petitioner. The only submission advanced by the learned DAG is that the value of the land has increased many times, so the petitioner is not entitled to get the land at the rate fixed by the government in 1972, rather the petitioner should pay the consideration money at the rate re-fixed by the government in 2011.

**11.** Annexure-E to the writ petition reveals that in 2011 the government has re-fixed the rate of the land to be given to the families of the martyrs and the wounded freedom fighters of our war of liberation. But the land in question was allotted to the petitioner on 21.01.1995, long before the new rate of 2011 come into force. Moreover, we do not find any reason that the government should bargain with the petitioner and other martyrs and the wounded freedom fighters families of our war of liberation for giving a small plot of land to them considering their invaluable sacrifice for the independence of our country. Since, the petitioner is the wife of a martyr of our war of liberation, the government, in fact, is not showing any favour to the petitioner by giving a small piece of land in her favour. If we do not show due respect to the martyrs of our liberation war, who sacrificed their lives for our country, we shall prove ourselves to be the most ungrateful nation. The representations made by the petitioner should have been considered by the respondents long before as admittedly she is the wife of a martyr of our war of liberation. It is stated that the husband of the petitioner was not only a martyr of our war of liberation, he was also the youngest brother of Late Hassan Hafizur Rahman who was again a valiant freedom fighter and who was the proud author of the "মুক্তিযুদ্ধের ইতিহাস দলিল". It is known to everybody that "মুক্তিযুদ্ধের ইতিহাস দলিল" is the most authentic and exhaustive true history of our war of liberation. We have all the reasons to show respect to the martyrs of our war of liberation and their family members.

**12.** The sacrifice of the husband of the petitioner knows no bound. The sacrifice of the petitioner is also no less. She became widow in 1971 at her prime age. With heavy heart and fragile financial condition she had to maintain her family. She survived against too many odds, raised her boys and daughters single handedly as single mother. But unfortunately, we are not showing any respect to her and to her martyr husband, who sacrificed his life for our nation. We have all the reasons to salute the petitioner who survived against too many odds and still has kept her head high up. The petitioner is a dignified lady, she is not asking to give the land to her free of costs or she is not asking any favour from the government. She is ready to pay the consideration money fixed by the government itself in 1972 as the land in question was allotted to her in 1995. Government allotted the land/structure in favour of the petitioner in 1995, but now the government is asking money from her at the rate fixed by the government in 2011. This is absolutely ridiculous, unwanted, unreasonable and unexpected.

**13.** The present government is trying to give honour to our freedom fighters.

Recently the government has allowed the freedom fighters to travel across the country by all transports including Biman Bangladesh Airlines without fare, We hail this decision of the government of Bangladesh. Martyrs are martyrs, their sacrifice can not be compared with anything else in this world. They will never come back, but they have given us enough at the cost of their lives. Let us take the vow that we will never forget them. In fact, a small plot of abandoned land in lieu of the supreme sacrifice made by the martyrs of our war of liberation is very very minimum that we could do for their families. Can the sacrifice of martyrs be compared with anything else in this world? The answer is No. We should not ask for any further question at all for giving a small plot of land/structure to the petitioner who is the wife of a martyr of our war of liberation.

**14.** Lastly again, the allotment was given to the petitioner on 20.01.1995 at the rate fixed by the government in 1972. There is no reason that she should be compelled to pay the consideration money at the rate fixed by the government in 2011. The petitioner was given allotment on 21.01.1995 and the new rate came into existence on 19.05.2011. On this count alone, the petitioner cannot be compelled to pay the consideration money at the rate fixed by the government in 2011. Moreover, there is no lapse on the part of the petitioner. She tried her best and made several representations (Annexure-F series) to the respondents to accept rest consideration money from her. So the petitioner is not at all at fault for the delay in paying the rent/consideration money for the land in question. The government has also accepted part payment from the petitioner at the rate fixed by the government in 1972. Therefore, there is absolutely no earthly reason that the Government should ask the petitioner to pay the consideration money at the rate fixed by the government in 2011 as the petitioner was given the allotment of the land in question on 20.01.1995, long before the new rate of rent of 2011 came into existence.

**15.** Considering all these facts and circumstances of the case and the discussions made hereinbefore, we find substance in this Rule.

**16.** Accordingly, the Rule is made absolute.

**17.** The inaction/failure of the respondents to transfer the Plot No. 24, Road No. 1, Pallabi, Mirpur, Dhaka in favour of the petitioner by registered deed at the rate fixed by the government in 1972 is declared illegal, without lawful authority and is of no legal effect. The respondents are directed to transfer the land, that is, Plot No. 24, Road No. 1, Pallabi, Mirpur, Dhaka to the petitioner by registered deed on payment of the rest arrear rent/consideration money at the rate fixed by the government in 1972 within 30(thirty) days from the date of receipt of a copy of this judgment.

**18.** There is, however, no order as to costs.

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