

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

WRIT PETITION NO. \_\_\_\_\_ OF 2014.

IN THE MATTER OF:

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

AND

IN THE MATTER OF:

1. Mr. Kamal Lohani, son of late Musa Lohani and Rokeya Lohani of 'Madhurima' being House No. 11, Road No. 13, Dhanmondi R/A, Dhaka.

2. Mr. Ramendu Majumdar, son of late Kuntal Krishna Majumdar and Leela Majumdar of 20/2 Central Road, Dhaka-1205.

3. Mr. Nasiruddin Yousuf, son of late Abul Fayej Md. Yousuf and Begum Shamsunnahar of 11/1Kha, Purana Paltan Line, Dhaka-1000.

4. Mr. Jhuna Chowdhury, son of Abul Fazal Chowdhury and Hamida Khatun of 92/B, P.O.: Zikatala-1209, Dhanmondi, Dhaka-1209.

5. Ms. Minu Haque, daughter of late Mehetar Billa and late Ameena Billa of Road-118, House-10, Gulshan, Dhaka.

6. Ms. Munmun Ahmed, daughter of Rafi Ahmed and late Saleha Begum of 4 Lake Circus, Kalabagan, Dhaka.

7. Ms. Dipa Khandakar, daughter of J. L. Das and Biva Das of 12/F, House-D/2 Flat, Road-126, Gulshan-1, Dhaka-1212.

.....Petitioners.

-V E R S U S-

1. Bangladesh represented by the Secretary, Ministry of Land, Bangladesh Secretariat, P.S- Shahbag, Dhaka.
2. The Secretary, Ministry of Housing & Public Works, Bangladesh Secretariat, P.S- Shahbag, Dhaka.
3. The Secretary, Ministry of Cultural Affairs, Bangladesh Secretariat, P.S- Shahbag, Dhaka.
4. The Deputy Commissioner, Dhaka, Office of the Deputy Commissioner, Dhaka, Bangladesh.
5. The Police Commissioner, Dhaka, DMP head quarter, Eskaton, Dhaka, Bangladesh.
6. The Additional Deputy Commissioner (L.A.) Dhaka, Office of the Deputy Commissioner, Dhaka, Bangladesh.
7. The Chief Engineer, Public Works Department (PWD), Shegunbagicha, Dhaka, Bangladesh.

....Respondents.

AND

IN THE MATTER OF:

Illegal, unauthorized and malafide De-Requisition Order dated 22.02.1984 passed by the respondents releasing the land being Municipal Holding No. 55 Swamibagh, P.S.: Sutrapur, Dhaka, Bangladesh (as of "ANNEXURE-D" (hereinafter referred to as impugned order).

## **GROUND S**

I. For that some unscrupulous people have made conspiracy and plan against the said premises of 55 Swamibagh to grab the same most illegally and in violation of law with the connivance of local administration and that of the vested-quarters. Due to that reason the property of 55 Swamibagh has been de-requisitioned illegally in the name of Haralal Ganguly, who migrated to India during the time of separation of country and never came back to Bangladesh. Hence,

order may be passed by your Lordships declaring the said release order dated 22.02.1984 illegal and without lawful authority.

II. For that the property was released/de-requisitioned in favor of said Haralal Ganguly by the Addl. Deputy Commissioner (L.A.), Dhaka by an order dated 22.02.1984 in violation of existing law. That after the Acquisition and Requisition of Immovable Property Ordinance 1982 was passed, the operation of the Emergency Requisition of Property Act 1948 (EB Act XIII of 1948) was ceased and hence, release/de-requisition order dated 22.02.1984 of the said premises is illegal and malafide. That as per section 1(4) of the said Emergency Requisition of Property Act 1948, the said Act has been in force for a period of 34 years and accordingly was repealed on 16.08.1982. Hence, it has no application in the instant case. That there was no proceedings under the said EB Act XIII of 1948 in respect of said premises and hence, de-requisition of the said premises in the year 1984 is without lawful authority. Hence, order may be passed by your Lordships declaring the said release order dated 22.02.1984 illegal and without lawful authority.

III. For that the Hon'ble High Court held in the case of Rajdhani Unnayan Karttripakkha (RAJUK) vs the Secretary, Ministry of Land and others (being Writ Petition No. 5198 of 2003) that after enacting the Acquisition and Requisition of Immovable Property Ordinance 1982 there is no scope to release the land so acquired. Moreover, the Hon'ble Appellate Division held that 'once a property is validly acquired after meeting all the legal formalities, it vests in the Government and its previous owner does not have any right to ask, return of the same for its non-utilization for the specific purpose for which it was acquired.' [50 DLR, (AD) (1998), Abul Bashar vs Bangladesh]. Hence, order may be passed by your Lordships declaring the said release order dated 22.02.1984 illegal and without lawful authority.

IV. For that the Respondents issued the release order dated 22.02.1984 and de-requisitioned the said premises in violation of law and with malafide intention and most arbitrarily just to grab land along with its others properties thereon. Hence, it is liable to be declared illegal and without lawful authority.

V. For that the said Jago Art Centre got the said property by proper authority and thereafter it has given all the rentals and other service charges to the authority and it is kept updated as per the govt. rules. Hence, release of the said property in favor of fake Haralal Ganguly is most illegal and without lawful authority.

VI. For that the duty and responsibility vested upon the respondents is to serve the people and initiate lawful steps and the respondents are also duty bound to obey the provisions of law. But the respondents have failed to perform the duties and responsibility as vested upon them and also failed to protect the above mentioned cultural abode, which is facing utmost threat towards its existence due to illegal plan and greed of some unscrupulous people

Wherefore it is most humbly prayed that your Lordships would graciously be pleased to -

- a) Issue a Rule Nisi calling upon the Respondents to show cause as to why the illegal, unauthorized and malafide de-requisition Order passed by the respondent No. 6 on 22.02.1984 being Memo No. 413/Reqn/84 releasing the land being Municipal Holding No. 55 Swamibagh, P.S.: Sutrapur, Dhaka, Bangladesh (as of "ANNEXURE-D",) should not be declared illegal and without lawful authority and is of no legal effect.
- b) Pending hearing of the Rule direct the respondents not to maintain status quo in respect of any kinds of transfer of the land being Municipal Holding No. 55 Swamibagh, P.S.: Sutrapur, Dhaka, Bangladesh.
- c) After hearing the parties make the Rule absolute.
- d) Pass such other and further order and/or orders as your Lordships may deem fit and proper.

### **Present Status**

The case was filed and moved by Advocate Manzill Murshid, President, HRPB. After hearing the parties the Hon'ble Court issued Rule Nisi upon the respondents and granted ad-interim order. The case was heard by the Hon'ble High Court Division and disposed of the rule with direction.