INTHE SUPREME COURT OF BANGLADESH
(APPELLATE DIVISION)

PRESENT:

Mr. Justice Md. Abdul Wahhab Miah.
Mr. Justice Muhammad Imman Ali.
Mr. Justice Md. Nizamul Huq.

CIVIL APPEAL NO.83 OF 2007.

Shinepukur Holdings Limited : ..... Appellants.

-Versus-

Abdur Rashid Chowdhury and others : ..... Respondents.

For the Appellant. : Mr. Shah Md. Monjurul Hoqu, Advocate, instructed by Mr. Md. Wahidullah, Advocate-on-Record.

For the Respondents : Mrs. Sufia Khatun, Advocate-on-Record

The 6th day of April, 2016.

JUDGMENT

Md. Abdul Wahhab Miah, J: This appeal, by leave, is from the judgment and order dated the 20th day of October, 2003 passed by a Division Bench of the High Court Division in Writ Petition No.838 of 2001 making the Rule absolute.

Facts necessary to dispose this appeal are that on 25.04.2000, respondent No.1 as the plaintiff presented a plaint before the দেউলিয়া বিষয়ক আদালত at Motijheel, Dhaka (hereinafter referred to as the Adalat) against the appellant and respondent No.3 for a decree, amongst others, declaring the said defendants Bankrupt for non-payment of a matured debt of taka 3,33,00,000˙00 on the averment that defendant No.1, Shinepukur Holding Limited, appellant herein and defendant No.2 Mahmudur Rahman, respondent No.3 herein (hereinafter referred to as the defendants) as the property developers entered into an agreement with the plaintiff and his

brother Abdul Hamid Chowdhury on 30.10.1985 for purchase of more or less 1.5 acres land comprising of Holding No.43, New Eskaton Road, Dhaka at a consideration of taka 11,00,00,000˙00 (eleven crore) including liabilities of taka 2,34,00,000˙00 clearly promising to pay taka 8,66,00,000˙00 equally to the plaintiff and his brother within 15 days of the expiry of a period of eighteen months from the date of commencement of the construction. The defendants got possession of the land with the execution of the agreement, constructed multi-storied buildings and sold them away. After a considerable delay, the defendants paid the plaintiff taka 1,00,00,000˙00 only out of this share of taka 4,33,00,000˙00. In spite of repeated demands the defendants did not pay the plaintiff any more money. So, the defendants owed to the plaintiff a matured debt of taka 3,33,00,000˙00. The plaintiff served a legal notice for money but without any result, Then, on 12.08.1999 the plaintiff served a formal notice making a formal demand for repayment of the debt under section 9(1)(ঝ) of the দেউলিয়া বিষয়ক আইন, ১৯৯৭, (the Ain). The defendants though received the notice, failed to make any payment within 90 days and thereby committed an act of bankruptcy within the meaning of section 9(1) of the Ain, which made the defendants liable to be declared bankrupt; hence the suit for declaring the defendants bankrupt.

The plaint was registered as দেউলিয়া বিষয়ক মোকদ্দমা No.27 of 2000 (hereinafter referred as the suit). The Adalat fixed 07.05.2000 for hearing on the question of maintainability, which was adjourned ultimately to 28.05.2000. On 28.05.2000 the plaintiff filed notice/summons for issuance upon the said defendants. The learned Judge of the Adalat rejected the prayer of the plaintiff for issue of summons/notice upon the defendants and rejected the plaint under sections 5(1) and 110 of the Ain by his order dated 28.05.2000 on the finding, *inter alia*, that the plaint was not filed by any

Bank or financial institution within the meaning of section 2(j) of The Financial Institutions Act, 1993; that no natural individual person is entitled to present a plaint under section 10 of the Ain; that the defendants had no matured debt to the plaintiff within the meaning of বিধি 2(ঢ) of দেউলিয়া বিষয়ক বিধিমালা, ১৯৯৭ (hereinafter referred to as the Bidhimala) as the claim of debt is not a bank-debt; the money claimed by the plaintiff could not be considered as a matured debt within the meaning of section 9(1)(ঝ) of the Ain and the allegations made in the plaint do not constitute an act of bankruptcy; the Adalat had no jurisdiction to pass a decree for recovery of money.

Challenging the said order of the Adalat, the plaintiff, respondent No.1 herein filed the above mentioned writ petition before the High Court Division and obtained the Rule Nisi.

The Rule Nisi was contested by respondent No.2, appellant herein by filing an affidavit-in-opposition contending, inter alia, that the writ petition as framed was not maintainable as the impugned order was appealable under section 96 of the Ain, the remedy by way of a statutory appeal was efficacious enough to disentitle the writ-petitioner to invoke the extraordinary jurisdiction of the High Court Division under article 102 of the Constitution; even after the impugned order, the writ-petitioner was entitled to bring a fresh suit or to make an application for setting aside the said order under bidhi 26(3) of the Bidhimala; as the claim of the writ-petitioner was based upon an agreement containing an arbitration clause and in view of such arbitration clause, the suit was barred under the Arbitration Act, 2001; the writ petition must be held to be bad for delay and latches as the impugned order was passed on 28.05.2000 and the writ petition was moved on 18.03.2001.

A Division Bench hearing the parties by the impugned judgment and order made the Rule absolute declaring the order of the Adalat dated 28.04.2000(it was wrongly typed as 25.04.2000 in place of 28.04.2000) to have been "made and/or passed" without any lawful authority and was of no legal effect and directed the Adalat to proceed with "the suit by issue of the summons/notice in accordance with law, expeditiously."

Against the judgment and order of the High Court Division the appellant filed Civil Petition for Leave to Appeal No.205 of 2004 before this Court and leave was granted to consider the submissions made on its behalf as under:

> Mr. Rafique-ul-Huq, the learned counsel, appearing for the petitioner submits that the High Court Division acted illegally in holding that the Bankruptcy Court vide order dated 28.05.2001 having dismissed the plaint under Sections 591) (sic, it would be 5(1)) and 110 instead of Section 28 of the Bankruptcy Act, acted without lawful jurisdiction, when admittedly the Bankruptcy court had source of power to dismiss the plaint under Section 28 of the said Act and passed the impugned order with lawful jurisdiction and the same being an appealable order as provided under Section 96(5) (gha) of the said Act, writ petition was not maintainable without availing the said alternative remedy.
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> Mr. Huq further submits that the order dated 28.05.2000 passed by the Bankruptcy Court being an appealable order as provided under Section 96(5) (gha) of the Bankruptcy Act, and the writ petition having efficacious alternative remedy by way of statutory appeal/review, the petition was not maintainable and thus the judgment dated 20.10.2003 passed by the High Court Division is liable to be set aside.
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> Mr. Huq also submits that the High Court Division acted illegally in treating the Bankruptcy Court as a Tribunal holding the impugned order being 'wrong' in law, the Writ Court has jurisdiction to interfere with when Bankruptcy Court being established under Bankruptcy Act, 1997 which is a special law and any order even if

passed perversely or wrong in law passed by the Bankruptcy Court, the remedies as provided in the said Act should be followed and therefore, the High Court Division in the presence of statutory remedy by way of appeal/review had no jurisdiction to interfere with the impugned order unless the said statutory remedy was availed and exhausted."

Mr. Shah Md. Monjurul Hoque, learned Advocate appearing for the appellant, has reiterated the submissions on which leave was granted, so we do not feel it necessary to record his submission.

Mrs. Sufia Khatun, learned Advocate-on-Record, appearing for the writ-petitioner-respondent, on the other hand, has supported the impugned judgment and order.

From the impugned judgment and order, it appears that the High Court Division considering the definition of "মেয়াদ উর্ত্তীণ দেনা" as given in bidhi 2(dha) of the Bidhimala held that:

"Definition is simple; straight and unambiguous. In Case of Bank or any other financial institution the matured debt means matured loan or debt as defined time to time by the Bangladesh Bank. And in other cases, matured debt means unliquidated loan or debt after the expiry of the time for payment of the loan, debt or instalment as fixed in a written deed advancing loan or debt.

Such definition covers both the words loan and debt and makes no difference between them. Nor it excluded any loan or debt given by an individual person from being matured debt. Only condition imposed is that such loan or debt must be based on a written document. If the conditions are fulfilled, an unliquidated loan or debt given by even an individual natural person will become matured loan or debt after the expiry of the time or period fixed in the written deed giving such loan or debt."

The High Court Division considering the definition of "যথাযোগ্য দেনাদার", "একক ব্যক্তি" and "একক দেনাদার" "যথাযোগ্য পাওনাদার" and "দেউলিয়া কর্ম" as given in section 2(38), 2(8), 2(39) and 2(19) respectively read with clause

(i)(jha) of section 9 of the Ain and the statements made in the plaint that the plaintiff got a matured debt against the defendants of taka 3,33,00,000.00 and that he sent a formal demand for payment of the debt in the prescribed manner and that the defendants having not complied with the demand within the period of ninety days committed an act of bankruptcy and upon such claim, the plaintiff presented the plaint before the Court held that:

> "The question whether or not the plaintiff had any valid and matured debt against the defendants within the meaning of section 9(1) of the Act could only be decided at the trial of the suit.
>
> But the Court fell in serious error in holding that no individual natural person as creditor is entitled to present a plaint, that no debt of such individual natural person even matured could be a matured debt and that the Court has no jurisdiction to recover money from a bankrupt under the Act."

The High Court Division also held that section 28(1) of the Ain empowers the Adalat to dismiss the plaint presented by a creditor if the Adalat is not satisfied with the proof of:

> "(i) such creditor's right to present the plaint;
> (ii) service on the debtor of a notice of the order fixing a date of hearing the plaint in accordance with section 22(2); and
> (iii) the alleged act of bankruptcy."

The High Court Division considering section 10 of the Ain held that the section clearly empowers one or more creditors; or a debtor to present a plaint when a debtor commits an act of bankruptcy for an order of adjudication declaring such debtor as bankrupt. And on these findings concluded that the presentation of the plaint by the plaintiff, an individual creditor was maintainable and that the Adalat was not correct in rejecting the same and the impugned order rejecting the plaint could not be sustained and accordingly set aside the same.

The High Court Division rejected the argument of the writ respondent that there being specific provision for appeal under section 96 of the Ain against the order of the Adalat, the writ petition was not maintainable on the finding that since the order of the Adalat was passed under sections 5(1) and 110 of the Ain and not under section 28 of the Ain or bidhi 11 of the Bidhimala, such order was not appealable under section 96 of the Ain.

We have considered the relevant provisions of the Ain and the bidhi of the Bidhimala framed under the Ain considered by the High Court Division in the impugned judgment and order as mentioned and referred to hereinbefore, we find no reason to differ with the view taken by the High Court Division as quoted and stated hereinbefore. In the plaint of the instant case, the plaintiff clearly stated the facts to attract the provisions of section 2(19) read with section 9 of the Ain, so the plaint was not liable to be rejected and the Adalat was obliged to proceed with the suit in accordance with the provisions of section 21 of the Ain read with bidhi 8 of the Bidhimala and section 22 of the Ain read with bidhi 13 of the Bidhmala, the High Court Division rightly set aside the order rejecting the plaint and directed the Adalat to proceed with the suit issuing the summons/notice upon the defendants in accordance with the law.

So far as the finding of the maintainability of the writ petition is concerned, we find it difficult to accept the view of the High Court Division.

From the order of the Adalat, it appears that in the body of the order, it did not mention or refer to section 5(1) or section 110 of the Ain and only in the ordering portion, it mentioned the said sections. The penultimate part of the ordering portion of the order reads as follows:

“ হুকুম হয় যে,

অত্র মকদমার দাখিলিকৃত আরজি রক্ষনীয় নহে মর্মে খারিজ হয় এবং বাদী পাওনাদার পক্ষ কর্তৃক সমন/নোটিশ ইসু করিবার প্রার্থনায় অদ্যকার দরখাস্ত না মঞ্জুর হয়। দেউলিয়া বিষয়ন আইন ১৯৯৭ এর ৫(১) এবং ১১০ ধারা প্রদত্ত ক্ষমতা বলে অত্র আদেশ প্রদান করা হইল।''

So, from the penultimate ordering portion of the order, it is absolutely clear that the plaint was rejected.

Let us see whether there is any provision in the Ain for rejection of the plaint of a দেউলিয়া বিষয়ক suit. The relevant provision in the Ain under which the Adalat could reject the plaint was section 28 thereof and bidhi 11 of the Bidhimala. The section and the bidhi read as follows:

''২৮। দরখাস্ত খারিজকরণ।- (১) পাওয়নাদার কর্তৃক দাখিলকৃত আর্জির ক্ষেত্রে আদালত উহা খারিজ করিয়া দিবে; যদি-

(ক) নিম্নবর্ণিত বিষয়াদির প্রমাণ সম্পর্কে আদালত সন্তুষ্ট না হয়,
যথা-
(অ) দরখাস্ত দাখিল করার জন্য উক্ত পাওনাদারের অধিকার;
(আ) দরখাস্ত শুনানীর তারিখ-নির্ধারণী আদেশের নোটিশ দেনাদারের উপর ২২ (২) ধারা অনুসারে জারীকরণ;
এবং
(ই) অভিযোগকৃত দেউলিয়া কর্ম; অথবা

(খ) দেনাদার আদালতকে সন্তুষ্ট করতে পারে যে,-
(অ) তিনি তাহার দেনা পরিশোধ করিতে সক্ষম;
(আ) তিনি কোন স্বেচ্ছাকৃত খেলাপী (wilfull defaulter) নহেন; অথবা
(গ) অন্য কোন কারণে দেউয়িা ঘোষণাদেশ প্রদান করা সমীচীন নহে মর্মে আদালত সন্তুষ্ট হয়।

ব্যাখ্যাঃ এই উপধারায় ''স্বেচ্ছাকৃত খেলাপী'' অর্থ এমন একজন দেনাদার যিনি, আনুষ্ঠানিক দাবীনামা জারীর পর, এক বৎসর সময়বাপী অন্ততঃ ৫,০০,০০০.০০ (পাঁচ লক্ষ) টাকার অধিক ব্যাংক ঋণ অপরিশোধিত রাখিয়াছেন।

(২) দেনাদার কর্তৃক দাখিলকৃত দরখাস্তের ক্ষেত্রে, উক্ত দরখাস্ত দাখিল করার জন্য দেনাদারের অধিকার সম্পর্কে সন্তুষ্ট না হইলে আদালত উহা খারিজ করিয়া দিবে।''

''বিধি ১১। আর্জি প্রত্যাখানঃ

(১) নিম্নলিখিত কারনে কোন মার্জি প্রত্যাখান করা যাইবে, যথাঃ

(ক) আর্জিতে মামলার কারন উল্লেখ না থাকা,

(খ) আর্জি ও বিবৃতি হইতে যদি প্রতিয়মান হয় যে, কোন আইনে মামলাটি নিষিদ্ধঃ

(গ) মামলা দাখিলের ব্যাপারে আইন এবং বিধিমালার কোন শর্ত পূরণ করা না হইলে।

(২) কোন আর্জি প্রত্যাখান করা হইলে, বিচারক উহার কারন উল্লেখপূর্বক একটি আদেশ

লিপিবদ্ধ করিয়া রাখিবেন।

(৩) এই বিধির অধীন কোন আর্জি প্রত্যাখান হইলে বাদী একই কারনে মামলা করার জন্য নতুন আর্জি দাখিল করার অধিকার হইতে বঞ্চিত হইবেন না।"

A reading of section 28 of the Ain and bidhi 11 of the Bidhimala as quoted above clearly show that the Adalat can reject a plaint of a দেউলিয়া suit if the conditions mentioned therein are present.

Let us see sections 5(1) and 110 of the Ain as invoked by the Adalat in the penultimate part of the order in rejecting the plaint. The sections read as follows:

"৫। দেউলিয়া বিষয়ক সকল প্রশ্নে সিদ্ধান্ত গ্রহণে আদালতে ক্ষমতা।

(১) এই আইনের বিধানবলী সাপেক্ষে, দেউলিয়া বিষয়ক কোন কার্যধারায় উত্থ্যাপিত যে কোন প্রশ্ন, স্বত্ব বা অগ্রাধিকার সংক্রান্তই হউক অথবা আইনগত বা ঘটনাগত বা অন্য যে কোন ধরনের হউক না কেন, যা আদালতের গোচরীভূত হয় বা যাহা উক্ত মামলার পূর্ণাংগ ন্যায় বিচার বা সংশ্লিষ্ট সম্পত্তির পূর্ণাংশ ন্যায় বিচার বা সংশ্লিষ্ট সম্পত্তির পূনাংগ বন্টনের উদ্দেশ্য নিষ্পত্তি করা সমীচিন ও প্রয়োজনীয় বলিয়া আদালত মনে করে সেই রুপ সকল প্রশ্নে সিদ্ধান্ত গ্রহণের পূর্ণ ক্ষমতা আদালতের থাকিবে।

১১০। আদালতের অনুনির্হিত ক্ষমতা।–

দেনাদার, কোন পাওনাদার বা রিসিভারের আবেদনক্রমে, আদালত উহার বিবেচনামতে যথাযথ এমন যে কোন আদেশ দিতে পারিবে, যাহা ন্যায় বিচারের স্বার্থে বা আদালতের কার্যক্রমের (process of court) অপব্যবহার রোধকল্পে প্রয়োজনীয় বলিয়া মনে করেন।

তবে শর্ত থাকে যে, এ ধারায় প্রদত্ত ক্ষমতা এমন কোন ক্ষেত্রে প্রয়োগ করা যাইবেনা, যে, ক্ষেত্রে এই আইনের অধীনের অধীনে অন্য কোন প্রতিকারের ব্যবস্থা আছে।"

A mere reading of these two sections shows that the legislature did not cloth these sections with the power to reject the plaint. Section 5(1) has empowered the Adalat to decide the questions of title or priority or of any other nature either legal or factual or of any other nature which may come to the knowledge of the Adalat or of any other nature which may arise in a দেউলিয়া suit or which the Adalat may deem fit and expedient or necessary for doing complete justice or for making a complete distribution of the property and the power given under the section is to be exercised in aid of the দেউলিয়া

suit and not otherwise. In the four corners of the section, nothing has been said about the rejection of the plaint.

A reading of section 110 shows that it has empowered the Adalat to exercise inherent power when an application is made by a debtor or creditor of receiver for securing ends of justice or to prevent the abuse of the process of the Adalat subject to the condition that the Adalat shall not exercise the power of inherent jurisdiction if there is a specific provision for remedy in the Act. So there being specific provision in section 28 of the Ain and in bidhi 11 of the Bidhimala for rejection of the plaint, the Adalat could not reject the plaint invoking its power under sections 5(1) and 110 of the Ain.

From a reading of sections 5 and 110 of the Ain, we find no difficulty to come to the conclusion that the plaint could not be rejected under the said sections and, in fact, the plaint was rejected under section 28 of the Ain. But the Adalat wrongly invoked sections 5(1) and 110 of the Ain in rejecting the plaint. Mere mentioning of wrong sections of the Ain or invoking of the wrong sections of the Ain shall not, in any way, change the colour and complexion of the order and in determining the nature of the order, its contents have to be looked into. Since the Adalat rejected the plaint and section 28 of the Ain is the only section under which it could reject the plaint, it must be presumed that the plaint was rejected under section 28 of the Ain. Therefore, the order of rejection of the plaint was appealable under section 96(5) of the Ain. This will be clear if we have a look at section 96(5) of the Ain. Section 96 of the Ain reads as follows:

> "৯৬। **আপীল**–(১) এই আইনের অন্যান্য বিধানাবলী সাপেক্ষে দেনাদার, যে কোন পাওনাদার, রিসিভার বা অন্য যে কোন ব্যক্তি, দেউলিয়া বিষয়ক কার্যধারায় এখতিয়ারসম্পন্ন কোন অতিরিক্ত জেলা জজ বা জেলা জজ প্রদত্ত সিদ্ধান্ত বা আদেশ দ্বারা সংক্ষুব্ধ হইলে ইহার বিরুদ্ধ হাইকোর্ট বিভাগের নিকট আপীল করিতে পারিবেন।
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> (২) সুপ্রীম কোর্ট সময় সময় হাইকোর্ট বিভাগের এইরূপ একটি বেঞ্চ গঠন করিবে যাহার দায়িত্ব হইবে শুধুমাত্র এই আইনের অধীনে দায়েরকৃত আপীল সমূহ নিষ্পত্তি করা।

(৩) .....

(৪) .....

(৫) নিম্নবর্ণিত যে কোন আদেশ বা সিদ্ধান্তের বিরুদ্ধ এই আইনের অধীনে আপীল করা যাইবে, যথাঃ-

(ক) স্বত্ব নির্ধারণের সিদ্ধান্ত;

(খ) দেউলিয়া কর্ম নির্ধারণের সিদ্ধান্ত;

(গ) বন্টনযোগ্য সম্পদ হইতে বন্টিত অংশ প্রদানের ক্ষেত্রে অগ্রাধিকার নির্ধারণের সিদ্ধান্ত;

(ঘ) ধারা ২৮ এর বিধান মোতাবেক কোন আর্জি খারিজের আদেশ;

(ঙ) ধারা ২৯ এর বিধান মোতাবেক ক্ষতিপূরণ প্রদানের আদেশ;

(চ) ধারা ৩০ এর বিধান মোতাবেক প্রদত্ত দেউলিয়া ঘোষণাদেশ;

(ছ) ধারা ৩৩ এর বিধান মোতাবেক স্থানান্তরিত এমন কোন মামলা বা কার্যধারা নিষ্পত্তিকারী ডিক্রি (প্রাথমিক ডিক্রিসহ) সিদ্ধান্ত বা আদেশ যাহার বিরুদ্ধে, মামলা বা কার্যধারাটি যদি স্থানান্তরকারী আদালত কর্তৃক প্রদত্ত হইত, আপীল করা যাইত;

(জ) ধারা ৩৮ এর বিধান মোতাবেক তফসিলে কোন মৌলিক তথ্য অন্তর্ভূক্ত সংক্রান্ত আদেশ;

(ঝ) ধারা ৪০ এর বিধান মোতাবেক প্রদত্ত দেউলিয়া ঘোষণাদেশ রদকারী আদেশ;

(ঞ) ধারা ৪২ এর বিধান মোতাবেক প্রদত্ত আদেশ, যাহা দ্বারা নিরুপিত শর্তাধীনে দেনাদারের নিকট কোন সম্পত্তি ফিরিয়া যায়;

(ট) ধারা ৪৬ এর বিধান মোতাবেক প্রদত্ত কোন পূর্ণগঠন পরিকল্পনার আদেশ বা উহা অনুমোদনকারী আদেশ;

(ঠ) দায়মুক্তির আবেদনের ব্যাপারে ৪৭ ধারার অধীন প্রদত্ত কোন আদেশ;

(ড) কোন পাওনাদারের পাওনা প্রত্যাখ্যান করিয়া বা পাওনার পরিমাণ কমাইয়া ৫৭ ধারার অধীন প্রদত্ত কোন আদেশ;

(ঢ) কোন সম্পত্তির পূর্ববর্তী হস্তান্তর রদ করিয়া ৫২ হইতে ৬০ ধারা পর্যন্ত ধারাসমূহের অধীনে প্রদত্ত কোন আদেশ।

(৬) .....

(৭) .....”

As the order passed under section 28 of the Ain is appealable under section 96(5) thereof, that was an equally efficacious remedy. It may also be stated that besides filing the appeal under section 96(5) of the Ain, the plaintiff had other remedies under bidhi 26(3) of the Bidhimala, i.e. he could file a fresh suit within 30 days from the date of the order or could file an application for setting aside the order rejecting the plaint. So, the plaintiff in any view of the matter could not invoke the jurisdiction of judicial review of the High Court Division under article 102 of the Constitution, the writ petition was not maintainable.

For the reasons stated hereinbefore, we have no hesitation to conclude that the High Court Division was wrong in holding that the writ petition was maintainable as "An order made under section 5(1) and/or 110 of the Act is not appealable". In taking the said view the High Court Division made a mechanical approach and failed to apply its mind to the order passed by the Adalat in its entirety.

Now a very pertinent question arises and the question is–since the writ petition was not maintainable, whether the finding of the High Court Division that the Adalat acted illegally and without lawful authority in rejecting the plaint, can be maintained. We have given our anxious thought over the matter. As found earlier that the Adalat acted illegally in rejecting the plaint and if the order impugned in the writ petition is not set aside on the ground of non-maintainability of the writ petition, the order shall remain and in that case, the plaintiff has to take recourse to other forum and that shall surely cause serious prejudice to him for wrong exercise of power by the Adalat. Moreso, this wrong order passed by the Adalat may be used as precedence in a case like the instant one. It is also a fact that the plaint in question was presented before the Adalat as back as on 25.04.2000, i.e. a few days less than 16 years before. In view of these, we consider it a fit case to invoke the power vested in this Court under article 104 of the Constitution and accordingly in exercise of that power, we are inclined to interfere with the order passed by the Dewlia Adalat in Dewlia Suit No.27 of 2000 for doing complete justice. Accordingly, this appeal is disposed of in the following terms:

The finding of the High Court Division that the writ petition was maintainable is set aside. The order dated 28.04.2000 passed by the Dewlia Adalat in Dewlia Suit No.27 of 2000 rejecting the plaint is set

aside. The Dewlia Adalat is directed to proceed with the suit and dispose the same in accordance with law. The question of maintainability of the suit shall be decided along with the other issues at the trial of the suit.

J.

J.

J.

J.

The 6th day of April, 2016.
M. Kashem. A.B.O