

**19 SCOB [2024] HCD 76****HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)****WRIT PETITION NO. 2191 OF 2022****Ali Imam****... Petitioner****Vs.****The Judge, Artha Rin Adalat,  
Chattogram and others****... Respondents**

Mr. Md. Sohrab Sarker, Advocates

.....For the petitioner

Mr. Ahsanul Karim, Senior Advocate

With

Mr. Aminul Haque and

Mr. Tanveer Hossain Khan, Advocates

..... For the respondent No. 2

Mr. A.B.M. Altaf Hossain, Senior

Advocate with

Mr. Md. Ziaul Haque,

Mr. Syed Misbahul Anwar and

Heard on 28.7.2022 and Judgment on

04.8.2022

**Present:****Mr. Justice J.B.M. Hassan****And****Mr. Justice Razik-Al-Jalil****Editors' Note:**

In the instant writ petition, the petitioner came before the Court when on the application under section 7(c) of the Bangladesh Passport Order, 1973 read with section 57 of the Artha Rin Adalat Ain, 2003 of the respondent no. 2, the Artha Rin Adalat passed an order against the plaintiff directing him to submit the passport and restraining him from going out of the country. The petitioner claimed that as a mere mortgagor he cannot be held liable and there is no provision relating to deposit of passport, curtailing freedom of movement in the Artha Rin Adalat Ain 2003. The High Court Division mentioning the case reported in 22 BLC (AD) 53 held that under section 6 (5) of the Act 2003, the plaintiff would also be liable with the same responsibilities as principle borrower. Moreover, the Court held that under article 36 of the Constitution freedom of movement is subject to the supervision by the court. The Court also held that under section 57 of the Act of 2003, the Adalat can pass any supplementary order to ensure justice.

**Key Words:**

Section 7(c) of the Bangladesh Passport Order; Sections 6(5), 34(1) and 57 of the Artha Rin Adalat Ain, 2003; Article 36 of the Constitution; Seizure of the passports, Freedom of movement

**6(5) and 34(1) of the Artha Rin Adalat Ain, 2003:**

Thus, the apex Court held that three categories of persons including mortgagor shall be liable for the decretal dues jointly and severally. Although the mortgagor defendants comes after principal borrower but this observation does not help the petitioner to escape from the liabilities of decretal dues, if any, inasmuch as according to section 6(5) of the Act, 2003 he will be one of the judgment debtors and responsibility are

equal/same with the principal borrower subject to 2<sup>nd</sup> proviso to section 6(5) of the Act, 2003. Therefore, on failure to adjust the decretal dues by the mortgaged property, the petitioner shall have to face consequence under section 34 (1) of the Act, 2003 by way of civil imprisonment alongwith principal borrower. ... (Para-13)

**Article 36 of the Constitution:**

On a plain reading of the aforesaid provisions, it is apparent that right of a citizen to move freely throughout the country as well as to leave and re-enter Bangladesh is guaranteed by this provision. But it is conditional i.e subject to any reasonable restriction to be imposed by law in the public interest. ... (Para-15)

**Article 36 of the Constitution:**

Our apex Court precisely observed that freedom of movement envisage in Article 36 is not absolute and it shall be subjected to supervision by the Court. At the same time, the apex Court required the public interest as well as the provision of law, for imposing condition in order to interfere with the right to freedom of movement. ... (Para-19)

**6(5) and 34(1) of the Artha Rin Adalat Ain, 2003:**

Section 6(5) of the Act, 2003 incorporates provisions to the effect that in passing the decree, the mortgagor shall be liable for the decretal dues jointly and severally along with the principal borrower and 3<sup>rd</sup> party guarantor. Thereby, he would become the judgment debtor and execution case shall proceed against all the judgment debtors. Section 34(1) of the Act, 2003 authorises the Adalat to award civil imprisonment in the execution proceeding against all the judgment debtors subject to conditions incorporated in section 34 of the Act in order to compel the judgment debtors to repay the decretal dues. Therefore, these are the provisions to the Adalat to assess the circumstances as to how the decree, if passed, would be realized from the judgment debtors. ... (Para-23, 24)

**57 of the Artha Rin Adalat Ain, 2003:**

Section 57 of the Act, 2003, in addition, authorizes the Adalat to pass any supplementary order to secure ends of justice, on consideration of the facts and circumstances under the proceedings. Therefore, we are of the view that section 57 is the appropriate provision incorporated in the statute (Act, 2003) authorizing the Adalat to pass the necessary order in order to ensure realization of the decretal dues. As such, in the public interest to ensure realization of public money, the Artha Rin Adalat exercised the statutory authority under section 57 of the Act, 2003 and by the impugned order directed the petitioner to deposit his passport. Hence, Article 36 of the Constitution has not been violated in passing the impugned order by the Adalat. ... (Para-25)

**57 of the Artha Rin Adalat Ain, 2003 read with Article 36 of the Constitution:**

Since the Banks are the custodian of the public money and the plaintiff-Bank is in the run of realisation of public money from the loan defaulters, of course the anxiety of the Bank attracts the public interest as envisaged under Article 36 of the Constitution. Therefore, considering all these aspects, the Adalat rightly passed the impugned order in the public interest having legal sanction under section 57 of the Act which does not call for any interference. ... (Para-29)

## JUDGMENT

### J.B.M. Hassan, J:

1. By filing an application under Article 102 of the Constitution, the petitioner obtained the Rule Nisi in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned order No. 92 dated 25.1.2022 passed by the learned Judge, Artha Rin Adalat, Chattogram (respondent No. 1) in Artha Rin Suit No. 21 of 2012 containing direction to submit the passport and restraining to go out of the country (Annexure-E to the writ petition) should not be declared to have been passed without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper.”

2. Relevant facts for disposal of the Rule Nisi are that the respondent No. 2, International Finance Investment & Commerce Bank Limited (IFIC), as plaintiff instituted Artha Rin Suit No. 21 of 2012 before the Artha Rin Adalat, Chattogram against the petitioner and others for realisation of loan amounting to Tk.61,03,31,623.97/- with upto date interest. The petitioner alongwith others as defendants have been contesting the suit by filing written statements.

3. In the suit, the plaintiff-bank filed an application on 25.11.2019 under section 7(c) of the Bangladesh Passport Order, 1973 read with section 57 of the Artha Rin Adalat Ain, 2003 (“**the Act of 2003**”) praying for necessary order for seizure of the passports of the defendant Nos. 2-6 (including petitioner).

4. The petitioner along with others filed written objection in the said application. After hearing the application, the Artha Rin Adalat, Chattogram (“**the Adalat**”) by the impugned order dated 25.1.2022 allowed the application and thereby directed the defendants Nos. 2-6 including the petitioner to deposit their respective passports by 31.1.2022 before the Court. The Adalat also communicated the order to the Additional Inspector General of Police, Special Branch so that the defendants including the petitioner cannot leave the country within 31.1.2022. Challenging the said order the defendant No. 4 filed this writ petition and obtained the present Rule Nisi.

5. While the petitioner moved the writ petition, this Court declined to entertain the writ petition for not complying with the Court’s order dated 25.1.2022 by depositing the passport within 31.1.2022. Thereafter the petitioner deposited his passport on 01.03.2022 and by filing affidavit the petitioner moved this writ petition.

6. Mr. A.B.M. Altaf Hossain, learned Senior Advocate with Mr. Md. Ziaul Haque, Mr. Sayed Misbahul Anwar and Mr. Md. Sohrab Sarker, learned Advocates appear on behalf of the petitioner while Mr. Ahsanul Karim, learned Senior Advocate with Mr. Aminul Haque and Tanveer Hossain Khan, learned Advocates appear on behalf of respondent No. 2-Bank.

7. Learned Advocate for the petitioner submits as follows:

(i) The petitioner is a mere mortgagor relating to the loan in question and as per 1<sup>st</sup> proviso to section 6(5) of the Act, 2003 his liabilities stand after exhausting the process against the principal borrower. Therefore, the suit which is still pending and

the petitioner stands in a far away from the liability in question, the Artha Rin Adalat erred in law directing the petitioner to submit his passport. In support of his submission, Mr. Altaf refers to the case of Sekendar (Md) and another vs. Janata Bank Ltd. and others reported in 22 BLC (AD) 53;

(ii) Article 36 of the Constitution guaranteed freedom of movement to the petitioner giving the right to move freely to leave and re-enter Bangladesh. But curtailing this right, the Artha Rin Adalat passed the impugned order directing to deposit passport;

(iii) Although regarding freedom of movement Article 36 of the Constitution incorporates a condition as to reasonable restriction imposed by law in the public interest. But there is no such law so far in the Artha Rin Adalat Act, 2003 incorporating provisions requiring the defendants to deposit passport with the Adalat and as such, the impugned order curtailing petitioner's fundamental right as to freedom of movement, has been passed without any backing of law. In support of his submission learned Advocate has referred to the case of Durnity Daman Commission vs. GB Hossain and others, reported in 74 DLR (AD) 1, the case of ICICI BANK LTD. Vs. KAPIL PURI & ORS. reported in 2017 SCC (Delhi) HCD 7377 and the case of State Bank of India v. Prafulchandra v. Patel & Ors. reported in AIR 2011 (Gujrat) 81.

8. In contrast, Mr. Ahsanul Karim, learned Senior Advocate for the respondent No. 2-Bank contends as follows:-

(a) Section 6(5) of the Act, 2003 provides that the principal borrower, 3<sup>rd</sup> party mortgagor and 3<sup>rd</sup> party guarantor involved in the loan in question, shall be made defendants in the suit and all of them shall be liable jointly and severally and the decree, if any, shall be operative against all of them jointly and severally. Therefore, only on plea of mortgagor the petitioner cannot escape from the liability and after passing the decree he will become the judgment-debtor.

(b) Section 34(1) of the Act, 2003 provides that in order to compel the judgment-debtor to adjust the decretal dues the Artha Rin Adalat is empowered to award civil imprisonment to the judgment-debtor.

(c) Considering the facts and circumstances of the case, the Artha Rin Adalat being satisfied as to the allegations brought by the plaintiff bank that the defendant shall leave the country in order to avoid the decree, if any, as a preventive measure the Artha Rin Adalat directed the petitioner and other defendants to deposit passport.

(d) The Adalat has the authority under section 57 of the Act, 2003 to pass any supplementary order required for ends of justice intended under this Act and to prevent the misuse of the Court proceedings. Therefore, having the statutory provisions in the Artha Rin Adalat Ain and considering the facts and circumstances of the case, the Adalat passed the impugned order which does not call for any interference by this Court.

9. Regarding the cases cited by the petitioner, Mr. Ahsanul Karim further contends that in spite of decision reported in 22 BLC (AD) 53, the petitioner stands as a judgment-debtor although after the principal borrower and so the body warrant may come upon him at any stage which he cannot deny. The Indian cases cited by the petitioner shall not be applicable in this particular case inasmuch as the language of the Constitution are not the same and the impugned order was passed for the public interest in order to protect the public money. Further, the case reported in 74 DLR (AD) 1 as cited by the petitioner does not debar the Adalat to pass order directing to submit the passport.

10. We have gone through the writ petition, affidavit-in-opposition filed by the respondent-bank, cited cases and other materials on record.

11. The respondent-Bank provided credit facilities in the year 2005 and 2006 in favour of the defendant No. 1, a proprietary firm owned by the defendant No. 2. Eventually, the liabilities having not been adjusted, the Bank instituted the Artha Rin Suit No. 21 of 2012 on 22.3.2012 for recovery of the aforesaid loan amounting to Tk.61,03,31,623.97 with interest as on 23.6.2011. On the basis of the plaintiff's application containing allegations that the defendants including the petitioner are taking attempt to leave Bangladesh for foreign country for good, the Adalat assigning details reasons, passed the impugned order which led the petitioner to file this writ petition.

12. To appreciate the submissions of the learned Advocate for the petitioner, we have gone through the cited decision reported in 22 BLC (AD) 53 and in paragraph 19 of the said judgment, the apex Court held as under:

*“19. The provisions of the Code of Civil Procedure will be applicable in filing and adjudicating upon a suit under the Artha Rin Adalat Ain, if those provisions are not inconsistent with the provisions of the Ain. In filing a suit against the principal debtor, the financial institution may implead the third party mortgagor or the third party guarantor, if he is involved in the loan. These are three persons against whom a suit of the nature can be filed seeking relief. There is no scope under the scheme of the Ain to implead in the category, of defendants other than those mentioned above or any third party can add as defendant. The judgment, order or decree of the Artha Rin Adalat can be jointly and severally executable. The execution proceeding shall be proceeded against all judgment debtors subject to the condition that the Adalat shall execute the decree against the principal debtor and subsequently, against the third party mortgagor or the third party guarantor for the recovery of the loan, as the case may be. There is a second proviso providing that if the third party mortgagor or third party guarantor repays the total amount of dues, the decree can be transferred in their favour and that they also can realize the total amount against the principal debtor.”*

13. Thus, the apex Court held that three categories of persons including mortgagor shall be liable for the decretal dues jointly and severally. Although the mortgagor defendants comes after principal borrower but this observation does not help the petitioner to escape from the liabilities of decretal dues, if any, inasmuch as according to section 6(5) of the Act, 2003 he will be one of the judgment debtors and responsibility are equal/same with the principal borrower subject to 2<sup>nd</sup> proviso to section 6(5) of the Act, 2003. Therefore, on failure to adjust the decretal dues by the mortgaged property, the petitioner shall have to face consequence under section 34 (1) of the Act, 2003 by way of civil imprisonment alongwith principal borrower.

14. The whole contention advanced by the learned Advocate for the petitioner is centering Article 36 of the Constitution and so to appreciate the issues in question, let us first read the article 36 which runs as follows:

*“36. Subject to any reasonable restrictions imposed by law in the public interest, every citizen shall have the right to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re-enter Bangladesh.”*

(Underlined)

15. On a plain reading of the aforesaid provisions, it is apparent that right of a citizen to move freely throughout the country as well as to leave and re-enter Bangladesh is guaranteed by this provision. But it is conditional i.e subject to any reasonable restriction to be imposed by law in the public interest.

16. Referring to this condition as to reasonable restrictions by the law, Mr. Altaf submits that the Act, 2003 does not provide any such provision authorizing the Adalat requiring the defendants to deposit passport and as such, having no enacted law, the right of petitioner guaranteed under Article 36 of the Constitution as to leaving the country and to re-enter Bangladesh cannot be interfered by taking his passport.

17. We have examined all the cited cases as referred to by the petitioner relating to Article 36 of the Constitution.

18. Besides the Indian cases, we find that in 74 DLR (AD) 1, our apex Court has discussed the issue and applicability of Article 36 with regard to citizens of the country. In particular, in the aforesaid case (74 DLR (AD) 1), the apex Court held as under:

*“19. All rights in an organized society are relative rather than absolute. With respect to the ambit of reasonable restrictions, the legislative view of what constitute reasonable restriction shall not be conclusive and final and that it shall be subjected to supervision by the Court. It is the duty of the Court to see whether the individual crosses the "Lakshman Rekha" that is carved out by law is dealt appropriately (Dharmendra Kirthal V. State of U.P.,:AIR 2013 SC 2569). Most basic rule while testing whether a law falls within the ambit of reasonable restriction is that no general or abstract rule shall be adopted for the application of all cases. Reasonable implies intelligent care and the deliberation. The legislation which arbitrarily or expressively invests the right cannot be set to contend the quality of reasonableness and unless it strikes a proper balance between the freedom guarantee. The restrictions imposed shall have a direct or proximate nexus with the object which the legislature seeks to achieve and the restriction so imposed must not be excessive of the said object.*

*20. Freedom of movement as envisaged in our Constitution is not absolute meaning thereby that the same is subject to certain limitation. Despite the long standing ideal of free movement, it has in practice always been subject to state restrictions. The right to leave one's country has never been considered as absolute right. The requirement of restriction to be reasonable means that the High Court Division has the power to Judge the reasonableness of restrictions in question. The reasonableness demands proper balancing of the fundamental rights of the people. It is the judiciary which has to finally judge the reasonableness of restriction. The restriction can be imposed by law only not an executive order (Chintanmon Rao V. State of Madhya Pradesh: AIR 1951 SC 118).*

*24. The provision provided in Article 36 safeguard the right to go abroad against executive interference which is not supported by law; and law here means 'inacted law.' No person can be deprived of his right to go abroad unless there is a law made by the State for so depriving him and the deprivation is effected strictly in accordance with law. In the exercise of his rights and freedom, everyone shall be subject only to such limitations as are determined by law. In an organized society, there can be no absolute liberty without social control. Liberty is not unbridled licence. Some restrictions on freedom of movement are legitimate if imposed for limited purposes in*

*a fair and non-discriminatory manner. Limitations on the freedom is justified but the limits must generally be reasonable, prescribed by law, and demonstrably justified in a free and democratic society. It was what Edmund Burke called "regulated Freedom". Freedoms if absolute would always be detrimental to the smooth functioning of the society as the individual interests of all individuals would be prioritised. The State can truncate the enjoyment of the freedoms through law. The protection of the collective is the bone marrow and that is why liberty in a civilized society cannot be absolute. There cannot be any such thing as absolute or uncontrolled liberty wholly freed from restraint, for that would lead to anarchy and disorder. The language of Article 36, clearly indicates that the protection it secures is limited one. In no case may a person be arbitrarily deprived of the right to enter his or her own country, and that there are few, if any, circumstances in which deprivation of the right to enter a person's own country could be considered reasonable. Legislation which arbitrarily or excessively invades the right cannot be a proper balance between the freedom guaranteed and the general welfare.*

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*25. With the discussion made above, it is observed:-*

*1. The fundamental right guaranteed under Article 36 of the Constitution is non-absolute right. The right to leave one's country has therefore never been considered an absolute right. The right may be restricted in certain circumstances.*

*2. Article 36 of the Constitution permits imposition of restrictions. However, such restrictions must be by way of the law enacted and must be reasonably needed in the public interest.*

*3. Without backing of law imposition of restriction on the freedom of movement by an executive order will be unconstitutional.*

*4. The legislative view of what constitute reasonable restriction shall not be conclusive and final and that it shall be subjected to supervision by the Court.*

*5. A restriction in order to be referred to as reasonable shall not be arbitrary and shall not be beyond what is required in the interest of the public. The restriction imposed shall have a direct or proximate nexus with the object sought to be achieved by the law.*

*6. Freedoms if absolute would always be detrimental to smooth functioning of the society. Reasonableness demands proper balancing.*

*7. The right to leave the country and to possess a passport may be restricted, most notably if the person's presence is required due to their having been charged with a criminal offence. However, merely because a person is involved in a criminal case, he is not denude of his fundamental rights.*

*8. Restriction may be imposed on travel in order to prevent exit from the country by persons who leave quickly to avoid due process of law. However, this would be subject to confirmation by the appropriate Court within a period of 3 working days.”*

(Underlines Supplied)

19. In the cited case there were 5 (five) writ petitions which were filed challenging an executive order passed by the Anti Corruption Commission. However, from the above mentioned paragraphs, our apex Court precisely observed that freedom of movement envisage in Article 36 is not absolute and it shall be subjected to supervision by the Court. At the same time, the apex Court required the public interest as well as the provision of law, for imposing condition in order to interfere with the right to freedom of movement.

20. Referring to this case, Mr. Altaf's submission is that within the four corners of the Act, 2003 there is no provision authorising the Adalat to require the defendants to deposit passport curtailing the right of movement to leave and re-enter the country.

21. We have to keep in mind that the impugned order is not an executive order. In disposing of the suit, the Artha Rin Adalat passed the said judicial order. Therefore, question arises whether the Adalat has the authority under the Act, 2003 to pass the impugned order. In other words, whether there is any provision in the Act, 2003 for interfering with the movement of petitioner requesting him to deposit passport.

22. To answer the question, we have gone through the relevant provisions of sections 6(5), 34(1) and 57 of the Act, 2003 which run as follows:

“৬(৫) আর্থিক প্রতিষ্ঠান মূল ঋণগ্রহীতার (Principal debtor) বিরুদ্ধে মামলা দায়ের করার সময়, তৃতীয় পক্ষ বন্ধকদাতা (Third party mortgagor) বা তৃতীয় পক্ষ গ্যারান্টর (Third party guarantor) ঋণের সহিত সংশ্লিষ্ট থাকিলে, উহাদিগকে বিবাদী পক্ষ করিবে, এবং আদালত কর্তৃক প্রদত্ত রায়, আদেশ বা ডিক্রী সকল বিবাদীর বিরুদ্ধে যৌথভাবে ও পৃথক পৃথক ভাবে (Jointly and severally) কার্যকর হইবে এবং ডিক্রী জারীর মামলা সকল বিবাদী-দায়কের বিরুদ্ধে একইসাথে পরিচালিত হইবে:

“তবে শর্ত থাকে যে, ডিক্রী জারীর মাধ্যমে দাবী আদায় হওয়ার ক্ষেত্রে আদালত প্রথমে মূল ঋণগ্রহীতা-বিবাদীর এবং অতঃপর যথাক্রমে তৃতীয় পক্ষ বন্ধকদাতা (Third party mortgagor) ও তৃতীয় পক্ষ গ্যারান্টর (Third Party guarantor) এর সম্পত্তি যতদূর সম্ভব আকৃষ্ট করিবে :.,

আরো শর্ত থাকে যে, বাদীর অনুকূলে প্রদত্ত ডিক্রীর দাবী তৃতীয় পক্ষ বন্ধকদাতা (Third party mortgagor) অথবা তৃতীয় পক্ষ গ্যারান্টর (Third party guarantor) পরিশোধ করিয়া থাকিলে উক্ত ডিক্রী যথাক্রমে তাহাদের অনুকূলে স্থানান্তরিত হইবে এবং তাহারা মূল ঋণগ্রহীতার (Principal debtor) বিরুদ্ধে উহা প্রয়োগ বা জারী করিতে পারিবেন।

৩৪। (১) উপ-ধারা (১২) এর বিধান সাপেক্ষে, অর্থঋণ আদালত, ডিক্রীদার কর্তৃক দাখিলকৃত দরখাস্তের পরিপ্রেক্ষিতে, ডিক্রীর টাকা পরিশোধে বাধ্য করিবার প্রয়াস হিসাবে, দায়িককে ৬ (ছয়) মাস পর্যন্ত দেওয়ানী কারাগারে আটক রাখিতে পারিবে।”

৫৭। এই আইনের অধীন অভিপ্রেত ন্যায় বিচারের উদ্দেশ্য সাধনকল্পে অথবা আদালতের কার্যক্রমের অপব্যবহার রোধকল্পে প্রয়োজনীয় যে কোন পরিপূরক আদেশ প্রদানে আদালতের সহজাত ক্ষমতা কোন কিছু দ্বারা সীমিত করা হইয়াছে বলিয়া গণ্য হইবে না।”

23. Section 6(5) of the Act, 2003 incorporates provisions to the effect that in passing the decree, the mortgagor shall be liable for the decretal dues jointly and severally along with the principal borrower and 3<sup>rd</sup> party guarantor. Thereby, he would become the judgment debtor and execution case shall proceed against all the judgment debtors.

24. Section 34(1) of the Act, 2003 authorises the Adalat to award civil imprisonment in the execution proceeding against all the judgment debtors subject to conditions incorporated in section 34 of the Act in order to compel the judgment debtors to repay the decretal dues. Therefore, these are the provisions to the Adalat to assess the circumstances as to how the decree, if passed, would be realized from the judgment debtors.

25. Section 57 of the Act, 2003, in addition, authorizes the Adalat to pass any supplementary order to secure ends of justice, on consideration of the facts and circumstances under the proceedings. Therefore, we are of the view that section 57 is the appropriate provision incorporated in the statute (Act, 2003) authorizing the Adalat to pass the necessary order in order to ensure realization of the decretal dues. As such, in the public interest to ensure realization of public money, the Artha Rin Adalat exercised the statutory authority



under section 57 of the Act, 2003 and by the impugned order directed the petitioner to deposit his passport. Hence, Article 36 of the Constitution has not been violated in passing the impugned order by the Adalat.

26. Further, analysing the Article 36 of the Constitution, in 74 DLR (AD) 1, our apex Court held that by the Court process, in other words, under the supervision of the Court, any order curtailing the movement of the citizen can be passed because it is not the absolute right of citizen to free movement.

27. In this particular case, we find that the liability was created in the year 2005 and 2006 for a huge amount of Tk.61,03,31,623.97 as on 23.06.2011. The suit was instituted in the year 2012 and by this time a huge interest has been accrued with the liabilities which may not be realized by the mortgaged property and thereby, the body warrant may come against the Judgment debtors including the petitioner. Moreover, in passing the order the Adalat took into consideration about the conduct and present position of the defendants as well as pendency of a good number of cases against the defendants both civil and criminal.

28. In course of hearing it has also been revealed that the defendant No.2 (father of petitioner) has left the country long before. Further, although the present petitioner has deposited the passport, as this court declined to hear the writ motion before depositing passport as per Court's order. But the other defendants did not deposit their passports so long. Considering all these facts and circumstances and the plaintiff's anxiety as to the allegation that the defendants shall leave the country to frustrate the decree, the Adalat, having legal sanction under section 57 of the Act, 2003, directed the defendants to submit their respective passports before the Court. Moreover, we are observing that it is a common phenomena in the present days, that a good number of Bank defaulters have been leaving the country siphoning public money from the public Bank.

29. Since the Banks are the custodian of the public money and the plaintiff-Bank is in the run of realisation of public money from the loan defaulters, of course the anxiety of the Bank attracts the public interest as envisaged under Article 36 of the Constitution. Therefore, considering all these aspects, the Adalat rightly passed the impugned order in the public interest having legal sanction under section 57 of the Act which does not call for any interference.

30. Although in the cited Indian cases i.e 2017 SCC (Delhi) HCD 7377 and AIR 2011 (Gujrat) 81, the High Court Division of Delhi and Gujrat did not encourage the interference in free movement of bank-defaulters considering article 21 of the Indian Constitution. But those cases are not applicable in this particular case because of the context of our society as mentioned above that the Bank defaulters are fleeing from the country siphoning public money in abroad and that our Constitution incorporates right to free movement of the citizen keeping in mind about the condition i.e. subject to imposition of reasonable restriction in the public interest. Therefore, the cited cases as referred to by the petitioner are not applicable in this particular case.

31. In view of above discussions, we do not find any merit in the Rule Nisi.

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

33. Since it is an old suit of 2012, the Adalat is directed to dispose of the suit expeditiously.

34. Communicate a copy of the judgment and order to the respondents at once.