

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

Admiralty Suit No. 02 of 2017

Gulf Oil Marine Limited

....Plaintiff

-Versus-

M.T. FADL-E-RABBI, IMO No. 9078177, Flag-
Panama and others

....Defendants

Mr. Md. Yamin Newaz Khan, Advocate

...For the plaintiff

None

...For the defendants

Heard on:26.08.2025

Judgment on : 27.08.2025

Present:

Mr. Justice Zafar Ahmed

Plaintiff has filed the instant admiralty suit praying for a decree for realization of unpaid dues for an amount of BDT 43,52,315.58 equivalent to USD 55,789.91 (based on prevalent exchange rate at the time of filing of the suit on 08.01.2017) against the principal defendants jointly and severally together with *pendente lite* interest.

The claim of the plaintiff arose out of supply of marine lubricants to the 1st defendant vessel M.T. FADL-E-RABBI (IMO No. 9078177). The 2nd defendant Eden Line Limited, which is a company

registered and based in Bangladesh, is the registered owner of the vessel.

None of the defendants contested the suit. Accordingly, the suit proceeded ex parte.

On 04.03.2021, the following issues were framed:

01. Has the plaintiff any cause of action against the defendants?

02. Has the plaintiff suffered any loss due to non-payment of the price of various shipping materials supplied to the vessel M.T. FADL-E-RABBI?

03. Are the defendants liable to make payment for the price of various shipping materials supplied to the vessel M.T. FADL-E-RABBI by the plaintiff?

04. Is the plaintiff entitled to any decree against the defendants?

If so, to what extent?

Plaintiff is the Gulf Oil Marine Limited which is a limited company registered and based in Hong Kong. The plaintiff company filed the suit through its constituted attorney Mr. Mehadi Hasan Babu who signed the Vokatnama. He also signed the plaint and verified the same. He also deposed as sole plaintiff witness (PW1). He produced the copy of 'General Power of Attorney' (GPA) dated 25.11.2016 (exhibit-1) executed by the plaintiff company by dint of

which PW1 filed the suit and deposed as witness. The GPA (exhibit-1) requires judicial scrutiny.

In respect of power of attorney, the applicable laws are the Power of Attorney Act, 2012 (came into effect on 01.07.2013) and the Power of Attorney Rules, 2015 (came into effect on 23.07.2015).

Rule 5(2) of the Rules, 2015 requires that the power of attorney executed outside Bangladesh has to be stamped either under the Stamp Act, 1899 or Stamp Duties (Additional Modes of Payment) Act, 1974, as the case may be, within a period of 03 months from its entry into Bangladesh. In this case, the GPA (exhibit-1) was not so stamped.

Rule 10 of the Rules, 2015 deals with procedures to be followed in respect of both irrevocable and general power of attorney executed outside Bangladesh.

Rule 10(2) requires that the power of attorney must contain colour photographs of the executant of the power of attorney and the attorney. Photographs are to be identified by the executant by putting his signature on those. Exhibit-1 (GPA) does not contain any photographs of the executant and the attorney.

Rule 10(4) requires that the general power of attorney and its copy must contain information as to National Identification or Birth Registration Certificate or Passport of the executant and the attorney.

Exhibit-1 (GPA) does not contain the requisite information of the executant and the attorney.

Rule 10(5) requires that within a period of 02 months from its entry into Bangladesh, the power of attorney and its copy have to be authenticated by the Ministry of Foreign Affairs or by a designated officer so appointed by the government. In the case in hand, the exhibit-1 (GPA) was not so authenticated.

Exhibit-1 (GPA) was executed by one David Gael Richard who was the authorized signatory of the plaintiff company pursuant to a resolution passed by the board of directors of the company on 02.11.2016. The GPA was notarized by Samuel Wai Choi Li, Notary Public, Hong Kong, Special Administrative Region of China. The signature of the signatory (notary public) was attested by the Consul of Consulate General of Bangladesh in Hong Kong.

An interesting part of the GPA (exhibit-1) is that the named constituted attorney in the GPA are Mr. Mehadi Hasan and Mirza Zahir Uddin Ahmed described as “Advocates of ATTORNEYS & ASSOCIATES OF IP LAWS, Building 572, Road No. 8, Suit-G1, Baitul Aman Society, P.S. Adabar, Dhaka 1207, Bangladesh.” They were authorised to, *inter alia*, file suit, sign, verify and declare plaint, give evidence and depositions in respect of the 1st defendant vessel M.T. FADL-E-RABBI. However, the suit was filed and the plaint was

verified by Mr. Mehadi Hasan Babu as constituted attorney. No explanation, whatsoever, has been given as to why the co-attorney Mr. Mirza Zahir Uddin Ahmed did not act as constituted attorney.

The upshot of the above discussions is that exhibit-1 (GPA) was defective inasmuch as the same was not executed in accordance with law. It cannot be treated as a legal document. It follows that the plaint, which was verified and filed by dint of the GPA, was not so verified and filed in accordance with law. During the course of argument, the defects were pointed out to the learned Advocate of the plaintiff. By order dated 16.07.2025, this Court adjourned the argument hearing for 01 month to give an opportunity to the learned Advocate to cure the defects. The defects were not cured.

In *Shah Alam vs. Abdul Kalam*, 54 DLR 276, it was held that a power of attorney not executed before or authenticated by a notary public nor any representative of the foreign mission, is not admissible in evidence. It was further held that only a duly constituted attorney can represent an absent party. In *Creative Chemicals Ltd. vs. MV Ocean Hope and others*, 18 BLC 770, this Admiralty Court held that in the absence of any power of attorney to give deposition on behalf of the plaintiff, the entire deposition of the plaintiff's witness is not admissible in evidence.

The above-mentioned two cases were decided prior to introduction of the Power of Attorney Act, 2012 and the Rules, 2015. The applicable law in those cases was the Powers-of-Attorney Act, 1882.

The new Act and the Rules are more specific and detailed compared to the earlier law. In *Abul Khair Md. Nazmul Huq and ors. vs. Government of Bangladesh and ors.* (Writ Petition No. 12985 of 2021), LEX/BDHC/0055/2022, the writ petitioners executed a power of attorney outside Bangladesh after coming into force of the New Act, 2012 and the Rules, 2015 authorising the constituted attorney to file the writ petition. The constituted attorney accordingly filed the writ petition. The High Court Division found that the power of attorney was not executed as per the provisions of the Rules, 2015. This Division held that since the power of attorney was not a valid piece of document, the writ petition was not maintainable as not being in form.

In the case in hand, the general power of attorney (exhibit-1) failed to comply with the requirements of law. Therefore, the *ratio* laid down in the above-mentioned cited cases equally apply to the instant case.

In respect of the merit of the case, PW1 submitted 03 marine lubricants delivery receipts dated 28.02.2016, 22.04.2016 and

13.06.2016 respectively [exhibit-2, 2(1) and 2(2)] and 03 invoices dated 01.03.2016, 22.04.2016 and 13.06.2016 respectively [exhibit-3, 3(1) and 3(2)]. PW1 did not submit any other documents to prove the case.

It is categorically stated in paragraph No. 3 of the plaint that the plaintiff company operates its business as supplier of ship chandler, bunker etc. at the coastal area of Chittagong Seaport in Bangladesh. It is further stated at paragraph No. 5 of the plaint that the defendants engaged the plaintiff as enlisted supplier for vessel calling at Chittagong port to supply the lubricants by several work orders. Those work orders have not been produced before the Court. It appears from exhibit-2 series and 3 series that the marine lubricants were supplied to the vessel at port Klang in Malaysia. The learned Advocate could not explain the apparent discrepancy as to the usual port of supply at Chittagong (as per plaint) and the actual supply in Malaysia (as per documents). These discrepancies render the plaintiff's case weak and create a reasonable doubt as to the genuineness of the case.

The upshot of the above discussions is that the general power of attorney (GPA) (exhibit-1) was not executed as per the provisions of the Power of Attorney Act, 2012 and the Rules, 2015 and as such, the same cannot be treated as a valid GPA. It follows that the filing of the plaint and verification of the same by the constituted attorney by dint of the GPA was not done in accordance with law. Moreover, the

evidence given by the constituted attorney as PW1 is not admissible in evidence. Furthermore, the plaintiff's case, *prima facie*, does not pass the threshold of standard of proof *i.e.* balance of probability. Accordingly, the suit fails.

In the result, the suit is dismissed.