

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(SPECIAL ORIGINAL JURISDICTION)  
WRIT PETITION NO. 5794 OF 2023

IN THE MATTER OF

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

-AND-

IN THE MATTER OF:

Kazi Mozammel Hoque and another

... Petitioners

-Versus-

The learned Joint District Judge, 1<sup>st</sup>  
Court and Artha Rin Adalat and another

... Respondents

Mr. Md. Ohidur Rahman, Advocate

.....For the petitioners

Mr. Touhidul Hasan, Advocate

..... For the respondent No. 2

Heard on 31.10.2023

Judgment on 01.11.2023

Present:

Mr. Justice J.B.M. Hassan

and

Mr. Justice Razik-Al-Jalil

J.B.M. Hassan, J:

This Rule Nisi was issued in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the Order No. 16 dated 09.02.2022 (Annexure-D to the writ petition) passed by learned Judge (Joint District Judge), 1<sup>st</sup> Court, Artha Rin Adalat, Feni in Artha Execution Case No. 05 of 2019 arising out of Artha Rin Suit No. 06 of 2016 allowing an application

under section 34(1) of the Artha Rin Adalat Ain, 2003 issuing warrant of arrest against the petitioners should not be declared to have been passed without any lawful authority and is of no legal effect and why the same should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.”

Both the parties advanced submissions in support of the Rule Nisi and opposing the Rule Nisi respectively.

It appears that challenging the same order other judgment-debtors earlier filed Writ Petition No. 1898 of 2023 and the Rule Nisi was made absolute by the judgment and order dated 26.04.2023 setting aside the impugned order allowing the decree-holder bank to file fresh application in accordance with law and following the observations made therein. The said judgment is annexed in the affidavit-in-opposition as Annexure-1 filed by the respondent No. 2.

Therefore, the fate of the present Rule Nisi shall follow the said judgment as the impugned order is no more in existence.

**Thus, the Rule Nisi is disposed of without any order as to costs.** The impugned order No. 16 dated 09.02.2022 is hereby declared to be without lawful authority and the Bank is at liberty to file fresh application as per observation as made in the

judgment and order dated 20.07.2023 passed in earlier Writ  
Petition No. 1898 of 2023.

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

Razik-Al-Jalil, J:

I agree.

SIB.O.