

IN THE SUPREME COURT OF BANGLADESH  
HIGH COURT DIVISION  
(CIVIL REVISIONAL JURISDICTION)

**CIVIL REVISION NO. 4256 OF 2017**

In the matter of:

An application under Section 115(1) of the Code of Civil  
Procedure.

AND

In the matter of:

Mrs. Nasima Akter @ Nasima Mannan

.... Petitioner

-Versus-

Export and Import Bank of Bangladesh Limited (EXIM  
Bank) and others

....Opposite-parties

None appeared

... For the petitioner

Mr. Mizanur Rahman, Advocate

....For the opposite party no. 1

**Heard and Judgment on 04.01.2024**

**Present:**

Mr. Justice Md. Mozibur Rahman Miah

And

Mr. Justice Mohi Uddin Shamim

**Md. Mozibur Rahman Miah, J:**

At the instance of the defendant no. 4 in Artha Rin Suit No. 01 of  
2016, this rule was issued calling upon the opposite-parties to show cause  
as to why the order no. 15 dated 23.11.2017 passed by the learned judge,  
3<sup>rd</sup> Artha Rin Adalat, Dhaka in the aforesaid Artha Rin Suit should not be

set-aside and/or such other or further order or orders be passed as to this court may seem fit and proper.

At the time of issuance of the rule, this court also restrained the opposite parties by an order of injunction from selling/transferring/disposing of the petitioners shares for a period of 6(six) months from date. That very order of injunction was subsequently extended on 31.05.2018 till disposal of the rule.

The salient facts leading to issuance of the instant rule are:

The present opposite party no. 1 as plaintiff originally filed the aforesaid suit claiming a total amount of taka 36,20,91,499.69 as of 30.12.2015 seeking following reliefs:

*(a) A decree for Tk. 36,20,91.499.69 (Taka Thirty Six crore Twenty Lac Ninety One Thousand Four Hundred Ninety nine and paisa Sixty Nine) only as on 30.12.2015*

*(b) A decree for profit/interest as per section 50(2) of the Artha Rin Adalat Ain, 2003.*

*(c) A decree to sell the shares (which has been mentioned in the schedule below) and directing the concern authority to take necessary step to transfer the same within specific time.*

*(d) Personal decree against the defendants;*

*(e) Entire costs of the suit;*

*(f) Any other relief or relieves to which the plaintiff is entitled to law and in equity.*

It has chiefly been stated in the plaint that, the defendant no. 2 on behalf of defendant no. 1, “M/S Samad Spinning Mills Ltd” availed several investment facilities from the plaintiffs such as IBP machinery facilities IBB limit and hypo facilities. Those very loans so sanctioned was subsequently rescheduled on several occasions. But as the defendant failed to repay the loan as per the stipulated time frame, the plaintiff bank then finding no other alternative issued a final demand on 10.03.2015 requesting the defendant to repay the entire liability within a period of 7(seven) days. Since the defendant did not come forward to pay back the said outstanding dues, the plaintiff was then compelled to file the said Artha Rin Suit. It is to be noted here that, since there has been no immovable property ever mortgaged with the bank, the defendant no. 4 then to secure the repayment of the loan, made lean by placing her 80.87,966 shares of “Shahjalal Islami Bank Limited” in favour of the plaintiff.

For that very obvious reason, after filing of the Artha Rin Suit, the plaintiff bank filed an application under section 12(2) of the Artha Rin Adalat Ain praying for allowing it to transfer the said shares of the defendant no. 4 in its favour and to sell those making following prayer:

*Wherefore, it is most humbly prayed that your Honour would graciously be kind enough to pass an order allowing the plaintiff to sell the scheduled pledged shares for the purpose of adjustment and also pass an order directing (i) Bangladesh Securities Exchange Commission, represented by its Chairman, Bhabon E-6/C, Agargaon, Dhaka (ii) Dhaka Stock Exchange Limited, represented by its Managing*

*Director, 9/F, Motijheel C/A, Dhaka (iii) Central Depository Bangladesh Limited (CDBL), represented by its Managing Director, CDBL Bhabon (18<sup>th</sup> Floor), 12, Kawran Bazar, Dhaka (iv) BLI Securities Limited represented by its Managing Director, 22, Bir Uttam M A Rob Sarak, Dhanmondi R/A, Dhaka and (v) Shahjalal Islami Bank Limited represented by its Managing Director, Corporate Head Office at Plot No. 4, CWN(C), Gulshan Avenue, Gulshan, Dhaka 1212 to execute sale/transfer of scheduled shares immediately and issue payment order being the sale proceeds of the pledged shares in favour of the plaintiff Bank, also to pass such order or further order or orders as Your Honour mayh deem fit and proper.*

At the same time, the plaintiff also filed an application seeking permission to withdraw the documents it submitted at the time of filing of the suit by replacing the same with the photocopies. However, both the applications were taken up for hearing by the learned judge of the Artha Rin Adalat and vide impugned order, the application so filed under section 12(2) of the Artha Rin Adalat Ain was kept with the record and the application for withdrawing the documents was allowed. It is at that stage, the defendant no. 4 as petitioner came before this court and obtained the instant rule and order of injunction as stated herein above.

None appeared for the petitioner to press the rule though the matter has been appearing in the list at the top for haring.

On the contrary, Mr. Mizanur Rahman, the learned counsel appearing for the opposite party no. 1 bank upon taking us to the impugned order and all other documents annexed with the application for discharging the rule at the very outset submits that, since the revision itself is not maintainable under the provision of section 44(2) of the Artha Rin Adalat Ain so the rule should be discharged on the point of maintainability. So far as regards to the merit of the case, the learned counsel further contends that, since no rejection order has been passed on the application filed under section 12(2) of the Artha Rin Adalat Ain rather the application was kept with the record so the petitioner has nothing to be prejudiced with the impugned order yet the petitioner has obtained the rule and order of injunction which cannot be sustained in law. On those two sole assertion, the learned counsel finally prays for discharging the rule.

We have considered the submission so advanced by the learned counsel for the opposite party no. 1 and perused the revisional application. Though the learned counsel for the petitioner did not turn up to press the rule yet we ourselves have gone through the grounds so have been taken. On going through the grounds, we find no legal ground there in to assail the impugned order. However on the face of the impugned order we find that no adverse order was passed on the application filed under section 12(2) of the Artha Rin Adalat Ain whereby the petitioner could be prejudiced rather the application was kept with the record through which permission was not given to the bank to sell or transfer the shares so pledged with the bank by the defendant respondent no. 4. Insofar as regards to withdrawal of the original documents filed at the time of filing of the suit

by the plaintiff, it was allowed (impugned order reproduced in the revisional application dated 23.11.2017 at page 8). On top of that since the learned counsel for the opposite party no. 1 mainly put his entire emphasis on the point of maintainability so we ourselves would like to confine our decision on that legal point. On going through the provision embodied in section 44(2) of the Artha Rin Adalat Ain we find that, there has been clear legal bar to entertain any revision or appeal against an interim order passed by an Artha Rin Adalat. There has been no denying that, the impugned order is an interim order so the revision itself cannot lie.

Given the above discussion and observation we don't find any iota of illegality in the impugned order which is liable to be sustained as the revision itself is not maintainable.

Resultantly, the rule is discharged however without any order as to cost.

At any rate, the order of injunction granted at the time of issuance of the rule thus stands recalled and vacated.

Let a copy of this judgment and order be communicated to the court concerned forthwith.

**Mohi Uddin Shamim, J:**

I agree.

Kawsar /A.B.O