

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

**Present:**

**Mr. Justice Md. Mozibur Rahman Miah  
and  
Mr. Justice Mohi Uddin Shamim**

**Civil Rule No. 362 (F) of 2019**

In the matter of:

An application for injunction

AND

In the matter of:

**Prime Finance Capital Management Ltd.  
represented by its Managing Director,  
63, Dilkusha (3rd floor) C/A, Dhaka.**

.... Plaintiff-appellant-petitioner

-Versus-

Bangladesh Bank represented by its  
Governor, Bangladesh Bank Bhaban,  
Motijheel C/A, Dhaka and others

.... Defendants-respondents-opposite parties

No one appears

... For the plaintiff-appellant-petitioner

Mr. Shaikh Mohammad Zakir Hossain,

Advocate with

Ms. Raziah Sultana, Advocate

.... For the defendants-respondents-opposite party No.3

**Heard on: 08.01.2024 and**

**Judgment on: 10.01.2024**

**Mohi Uddin Shamim, J.**

At the instance of the plaintiff-appellant-petitioner this rule was issued  
  
calling upon the defendants-respondents-opposite parties to show cause as to

why they should not be restrained by an order of injunction from reporting, circulating and publishing the name of the plaintiff-appellant- petitioner in the CIB report of Bangladesh Bank classifying the company as defaulter borrower till disposal of the F.A. No.343 of 2019 and/or such other or further order or orders passed as to this court may seem fit and proper.

At the time of issuance of the Rule, this Court also passed an ad-interim order of injunction restraining the defendant-opposite parties from reporting, circulating and publishing the name of the plaintiff-appellant-petitioner in the CIB report of Bangladesh Bank classifying the Company as defaulted borrower for a period of 06 (six) months from date; which has subsequently been extended from time to time and lastly it was extended till disposal of the Rule on 30.08.2022.

Facts relevant for disposal of the Rule, in short, are that the present petitioner as plaintiff filed a title suit being Title Suit No.267 of 2019 before the learned Joint District Judge, 5<sup>th</sup> Court, Dhaka for declaration to the effect that publication of its name in the Credit Information Bureau, hereinafter referred to as CIB, report of Bangladesh Bank classifying it and its Managing

Director as defaulting borrower is illegal, collusive, mala fide, without lawful authority and not binding upon the plaintiff. After filing the suit, the plaintiff also filed an application under Order XXXIX, rules 1 and 2 read with section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as CPC) for temporary injunction for restraining the defendants from circulating and publishing the name of the petitioner in the CIB report of Bangladesh Bank as defaulter borrowers. Both the suit and the application for injunction were taken up for hearing together by the learned Joint District Judge, 5<sup>th</sup> Court, Dhaka on 13.05.2019 and ultimately rejected the plaint under Order VII, rule 11(d) of the CPC, relying upon section 27 Ka, Ka of the Banking Companies Act, 1991 and article 42-48 of Chapter IV of the Bangladesh Bank Order, 1972 and made no order upon the application for injunction since the suit was rejected.

Being aggrieved by and dissatisfied with the said order of rejection of the plaint i.e. dismissal of the suit as well as the application for injunction, the plaintiff as appellant preferred the instant First Appeal being No.343 of 2019. Soon after preferring the appeal, the appellant as petitioner filed an

application under order XXXIX, rules 1 and 2 of the CPC for injunction on the self-same averments and prayers as earlier and obtained the instant Rule and order of injunction.

No one appears to press the Rule though the matter has been appearing for hearing at the top of the daily cause list with the name of the learned counsels for the contending parties.

Mr. Shaikh Mohammad Zakir Hossain, learned advocate, appears with Ms. Raziah Sultana, advocate on behalf of the opposite party No.3 to oppose the Rule, taking us to the application for injunction, Rule issuing order and contends that, under the provision of section 27 Ka, Ka of the Banking Companies Act, 1991, the Banks and the financial institutions are in its statutory obligation to send the name of defaulting borrower(s) to Bangladesh Bank, and Bangladesh Bank in its turn, is under statutory obligation to insert the names of those defaulting borrowers in its CIB report and circulating the said names and report to all the Banks and financial institutions of the country, having no illegality in it.

The learned counsel further contends that, since there has been legal embargo in challenging the propriety of any action and steps taken by Bangladesh Bank under article 41(2) of chapter IV of the Bangladesh Bank Order, 1972 and as such there is no scope to challenge the inclusion and publications of the defaulting borrowers name in the CIB report and she finally prays for discharging the Rule.

We have heard and considered the submission so advanced by the learned counsel for the opposite party No. 3, perused the application for injunction and the Rule issuing order. We have also gone through the provisions of law and according to section 27 Ka, Ka of the Banking Companies Act, 1991, it is the statutory duty of the Banks and the financial institutions to send its defaulting borrowers name to Bangladesh Bank time to time and in this way Bangladesh Bank is in under legal obligation to include the names of the defaulting borrows to the CIB report and circulating the same to the Banks and financial institutions of the country. According to the provisions of article 41(2) of chapter IV of the Bangladesh Bank Order, 1972, there is a clear bar to any legal proceeding against any action or steps taken by

Bangladesh Bank against defaulting borrowers, which was enunciated in the decisions reported in **73 DLR 554** along with other reported cases. Given such a legal embargo, we are not inclined to discuss such settled issue further and we also do not find any legal grounds for which the impugned order can be called into question.

Considering the discussions made hereinabove, we do not find any merit in the Rule.

In the result, the Rule is **discharged** however without any order as to cost.

The order of injunction granted at the time of issuance of the Rule is hereby recalled and vacated.

Communicate a copy of this judgment to each of the opposite parties forthwith.

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

I agree.