

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

Present:

Mr. Justice S M Kuddus Zaman
And
Ms. Justice Tamanna Rahman Khalidi

CIVIL REVISION NO.237 OF 2019

In the matter of:

An application under Section 115 of the Code of Civil Procedure.

And

Dhaka Bank Limited

... Petitioner

-Versus-

Otto Textile Mills Limited and others

... Opposite parties

Mr. K. S. Salah Uddin Ahmed with

Mr. Md. Aserul Haque, Advocate

... For the petitioner.

None appears

... For the opposite parties.

Heard on 26.01.2026 and Judgment on 01.02.2026

S M Kuddus Zaman, J:

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued calling upon the opposite parties to show cause as to why the impugned order dated 12.09.2018 passed by the learned Joint District Judge and Artha Rin Adalat, Narayangonj in Artha Jari Case No.21 of 2017 arising out of Artha Rin Suit No.07 of 2011 dismissing the said Artha Jari Case of the petitioner under Section 28(4) of the Artha Rin Adalat Ain, 2003 should not be set aside and/or other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioner as plaintiff instituted Artha Rin Suit No.7 of 2011 for recovery of outstanding loan from the defendant which was decreed on contest for Taka 43,59,37,241.23 and the decree holder for execution of above decree filed Execution Case No.36 of 2011. Above execution case was disposed of under Section 33(9) of the Artha Rin Adalat Ain, 2003 by issuing a certificate of ownership on 12.07.2011. Above petitioner filed a Second Execution Case for realization of outstanding loan money being Execution Case No.21 of 2017 on 19.10.2017 and the learned Joint District Judge rejected above Execution Case vide impugned judgment and order dated 12.09.2018.

Being aggrieved by and dissatisfied with above judgment and order above petitioner as petitioner moved to this Court with this Civil Revisional application under Section 115(1) of the Code of Civil Procedure and obtained this Rule.

Mr. K. S. Salah Uddin Ahmed, learned Advocate for the petitioner submits that the petitioner filed Execution Case No.36 of 2011 for realization of decreetal money of Taka 43,59,37,241.23 but no bidder was found to purchase the mortgaged property in auction. As such the learned Judge of the Execution Court issued a certificate of ownership to the petitioner for above property. Subsequently it turned out that the value of the mortgaged property was insufficient to fully satisfy above decree. As such the petitioner filed Second Execution Case on 19.10.2017 but the learned Judge of the Artha Rin Adalat failed to

appreciate above materials on record and most illegally rejected above Execution Case which is not tenable in law.

No one appears on behalf of the opposite parties at the time of hearing of this Rule although this matter appeared in the list for hearing on several dates.

We have considered the submissions of the learned Advocate for the petitioner and examined all materials on record.

Admittedly the petitioner as plaintiff filed Artha Rin Suit No.7 of 2011 which was decreed for Taka 43,59,37,241.23 and the decree holder filed Execution Case No.36 of 2011 for realization of above money and above execution case was disposed of by issuance of a certificate of ownership for the mortgaged property to the petitioner on 18.07.2011.

Section 33(9) of the Artha Rin Artha Rin Adalat Ain, 2003 provides that an Execution Case be disposed of finally as soon as the Court issues a certificate of ownership to the decree holder under Section 33(7) of the Artha Rin Adalat Ain, 2003. Admittedly Decree Execution Case No.36 of 2011 was finally disposed of by issuance of a certificate of ownership for the mortgage property on 12.07.2011. It is admitted that the petitioner filed second Execution Case No.21 of 2017 on 19.10.2017 after more than five years of the disposal of the first execution. Section 28(3) of the Artha Rin Adalat Ain, 2003 provides as follows:

২৮(৩) “জারীর জন্য দ্বিতীয় বা প্রথম বা পূর্ববর্তী জারীর মামলা খারিজ বা নিষ্পত্তি হওয়ার পরবর্তী এক বৎসর সময় উত্তীর্ণ হওয়ার পরে দাখিল

করা হইলে, উক্ত মামলা তামাদিতে বারিত হইবে; এবং তামাদিতে বারিত অনুরূপ
মামলা আদালত কার্যার্থে গ্রহণ না করিয়া সরাসরি খারিজ করিবে।”

On consideration of above facts and circumstances of the case and materials on record we hold that above second Execution Case was barred by Section 28(3) of the Artha Rin Adalat Ain, 2003 not by Section 28(4) of above Ain as was erroneously held by the learned Judge of the executing Court.

In above view of the facts and circumstances of the case and materials on record we are unable to find any illegality or irregularity in the impugned judgment and order nor we find any substance in this Civil Revisional application under Section 115(1) of the Code of Civil Procedure and the Rule issued in this connection is liable to be discharged.

In the result, the Rule is hereby discharged.

However, there will be no order as to cost.

Tamanna Rahman Khalidi, J:

I agree.

MD. MASUDUR RAHMAN
BENCH OFFICER