

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

Present:

Mr. Justice Kazi Md. Ejarul Haque Akondo  
and  
Mr. Justice Mohi Uddin Shamim

**First Miscellaneous Appeal No.99 of 2021**  
**and**  
**Civil Rule No. 287 (FM) of 2020**

In the matter of:

Khandker Mohammad Khaled, son of late  
Delowar Ali Khandker and others

.... Plaintiffs-appellants-petitioners

-Versus-

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

.... Defendants-respondents-opposite parties

Md. Nazmul Huda, Advocate

.... For the plaintiffs-appellants-petitioners

Mr. Parvez Hashem, Advocate

.... For the defendant-respondent-opposite  
party No.4

Mr. Imran Ahmed Bhuiyan, Advocate with

Mr. Md. Anamul Hossain, Advocate

.... For the defendant-respondent-opposite  
party No.5

Mr. Moinuddin Farooqi, Advocate

.... For the defendant-respondent-opposite  
party No.7

Mr. Chowdhury Mokimuddin Khan Jahan Ali,

Advocate with

Mr. Sazal Mahmud Rasel, Advocate with

Mr. Syfuzzaman, Advocate

.... For the defendant-respondent-opposite  
party No.8

Mr. Najmul Karim, Advocate with  
Mr. Mahabub Hasan Chowdhury, Advocate

.... For the defendant-respondent-opposite  
party No.9

Mr. Md. Monzurul Alam (Sujon), Advocate with  
Ms. Sharmin Akter, Advocate

.... For the defendant-respondent-opposite  
party No.10

Mr. Moley Kumar Roy, Advocate with  
Mr. Sheikh Sohel Mahmud, Advocate

.... For the defendant-respondent-opposite  
party No.11

Ms. Nahid Hossain, Advocate

.... For the defendant-respondent-opposite  
party No.13

Mr. Khan Mohammad Shameem Aziz, with  
Mr. Mostafa Mosharraf Hossain, Advocates

.... For the defendant-respondent-opposite  
party No.14

Mr. Md. Saifur Rahman Chowdhury, Advocate

.... For the defendant-respondent-opposite  
party No.15

**Heard on 28.11.2024, 01.12.2024**

**and**

**Judgment on 03.12.2024**

**Mohi Uddin Shamim, J.**

Since the facts and points of law involved in the appeal and the Rule are intertwined, those are being heard together and disposed of by this common judgment.

The appeal is directed against the Judgment and order dated 23.02.2020 passed by the learned Joint District Judge, 1<sup>st</sup> Court, Dhaka in Title Suit No.143 of 2020, rejecting the application for temporary injunction on behalf of the plaintiffs-petitioners under Order XXXIX rule 1 and 2 read with section 151 of the Code of Civil Procedure, 1908 (hereinafter referred as CPC).

At the time of hearing of appeal admission, the plaintiffs filed an application under Order XXXIX, rules 1 and 2 read with section 151 of the Code of Civil Procedure, 1908 for temporary injunction for restraining the defendants from circulating and publishing further the names of the plaintiffs' petitioners in the CIB report of Bangladesh Bank as defaulter borrower and, after hearing of the said application this Court was pleased to issue a rule calling upon the defendants-respondents-opposite parties to show cause as to why they should not be restrained by an order of injunction from publishing or circulating further the names of the plaintiffs-appellants-petitioners as defaulter borrowers in the report of Credit Information Bureau (CIB) of

Bangladesh Bank and/or pass such other or further order or orders 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 defendants-respondents-opposite parties from further publication or circulation of the names of the plaintiffs-appellants-petitioners in the CIB report of Bangladesh Bank for a period of 8 weeks from date; which has subsequently been extended time to time and lastly it was extended till disposal of the Rule on 30.08.2022.

Facts relevant for disposal of the appeal as well as the rule, in short, are that the present appellant-petitioners as plaintiffs filed a title suit being Title Suit No.143 of 2020 before the learned Joint District Judge, 1<sup>st</sup> Court, Dhaka for declaration to the effect that the CIB report of Bangladesh Bank classifying the plaintiffs as defaulter borrower is illegal, collusive, mala fide, without lawful authority and not binding upon the plaintiffs. After filing of the suit, the plaintiffs also filed an application for temporary injunction under Order XXXIX, rules 1 and 2 read with section 151 of the CPC, restraining the defendants from circulating and publishing further the name of the plaintiffs'

in the CIB report of Bangladesh Bank as defaulter borrowers. The application for injunction was taken up for hearing by the learned Joint District Judge, 1<sup>st</sup> Court, Dhaka on 23.02.2020 and ultimately the said application was rejected on the very same day.

Being aggrieved by and dissatisfied with the said order of rejection dated 23.02.2020 the plaintiff as appellant preferred the instant First Miscellaneous Appeal being No.99 of 2021 (FMAT No.185 of 2020). Soon after preferring the First Miscellaneous 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 prayed as earlier and obtained the instant Rule and order of injunction.

No one appears to press the appeal or the Rule, though the matters have been appearing at the top of the daily cause list for hearing with the names of the learned counsels for the contending parties.

Ms. Nahid Hossain, learned advocate appears on behalf of the defendant-respondent-opposite party No.13 to oppose the appeal as well as the rule, taking us to the memo of appeal, the application for injunction, the

Rule issuing order and contends that, under the provision of section 27 KaKa of the Banking Companies Act, 1991 the Banks and the Financial Institutions are in its statutory obligation to send the name of its' 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 those 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(1)(2) of chapter III of the Bangladesh Bank Order, 1972 and as such there is no scope to challenge the inclusion, circulation and publications of the defaulting borrowers name in the CIB report and finally prays for dismissing the appeal and discharging the Rule.

The learned Counsels appear for and on behalf of the respondent opposite party Nos. 4, 5, 7, 8, 9, 10, 11, 13, 14 and 15 have adopted the above mentioned submissions so advanced by the learned counsel for the

respondent-opposite party No. 13 as of the submissions of their respective clients.

We have heard and considered the submissions so advanced by the learned counsels for the defendants-respondents-opposite parties, perused the grounds taken in the Memo of Appeal, application for injunction and the rule issuing order. We have also gone through the provisions of relevant laws and regulations; according to section 27 KaKa 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 also in under legal obligation to include the names of those defaulting borrows to CIB report of Bangladesh Bank and circulating the same to the banks and financial institutions of the Country. According to the provisions of article 41(1)(2) of chapter III 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 so made hereinabove, we do not find any merit in the Appeal.

In the result, the Appeal is dismissed, however, without any order as to cost. Since the appeal is dismissed, consequently the connecting Rule is also discharged.

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

Communicate a copy of this judgment to the Court concerned and each of the respondent-opposite parties forthwith.

Kazi Md. Ejarul Haque Akondo, J.

I agree.