

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)**

WRIT PETITION NO.2396 OF 2005

IN THE MATTER OF:

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

-AND-

IN THE MATTER OF:

Mrs. Aleya Begum, wife of Farid Ahamed of
Village: Chakpara, P.S. and District:
Netrokona

-----Petitioner.

-Versus-

Artha Rin Adalat No.1, Netrokona and
another.

-----Respondents.

No one appeared for -----both sides.

Judgment on: 17.05.2023

Present:

Mr. Justice K.M. Kamrul Kader.

And

Mr. Justice Mohammad Showkat Ali Chowdhury.

Mohammad Showkat Ali Chowdhury, J: This Rule Nisi under adjudication at the instance of the petitioner under Article 102 of the Constitution of the People's Republic of Bangladesh was issued on 23.04.2005 in the following terms:

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why the impugned order dated 01.09.2004 passed by the respondent No.1 (Annexure-F) canceling the order dated 28.07.2004 by which the petitioner was allowed to pay the loan money along with interest in 8 installments should not be declared to

have been made without lawful authority and is of no legal effect and as to why the order dated- 12.04.2005 passed by the respondent No.1(Annexure-J) issuing an warrant of arrest against the petitioner should not be declared to have been made without lawful authority and is of no legal effect and/or pass such other or further order or orders as to this court may deem fit and proper.”

2. The averments made in the writ petition leading to the Rule which are relevant for disposal of the Rule shall be focused. The petitioner took loan of Tk. 6, 74,924/- (Six lakh seventy four thousand nine hundred& twenty four taka) from the respondent No.2 (Manager, Sonali Bank, Netrokona Branch, Netrokona) on 30.11.1999 and since the petitioner failed to repay the loan money along with interest within the specific period the respondent No. 2 as plaintiff under Artha Rin Adalat Ain, 2003 (**in short the Ain, 2003**) filed Artha Rin Case No.22 of 1999 before respondent No.1 (Artha Rin Adalat No.1, Netrokona)and the said suit was decreed on ex-parte dated- 31.05.2000. The petitioner in compliance with the said decree did not pay loan money along with interest, the respondent No. 2 filed Artha Rin Execution Case No.6 of 2000 but in respect to the aforesaid execution case the petitioner did not take any step to pay the loan money including the interest as per decree.On 28.07.2004 the petitioner filed an application before the respondents No.1 stating that her business has been affected by flood, it is necessary to give her opportunity to pay the same on 8 installments each of quarterly

payable. The Respondent No.1 by its order No.45 dated- 28.07.2004 allowed the petitioner to pay loan money including the interest in 8 installments each of quarterly payable.As per the earlier order passed by the respondent No.1, the petitioner paid Tk.50,000/-(fifty thousand) and filed an application on 01.09.2004 with a receipt of payment of Tk. 18,000/- praying for one month time to deposit the remaining taka of the 1st installment.The respondent No.1 after hearing the parties rejected the said prayer by order dated 01.09.2004 holding that the petitioner violated the order dated 28.07.2004,as such;said order is deemed to be summarily cancelled and directed the petitioner to pay all the money at a time otherwise necessary order will be passed to that effect. It is also stated in the petition that the petitioner deposited the money of the 1st installment but the respondent No.1 by its order dated 10.3.2005 fixed on 12.04.2004 for holding auction but no auction was held on that date.

3. It has been next stated in the supplementary affidavit dated 23.04.2005 that the learned Executing Court by its order dated 12.04.2005 rejected the prayer of the petitioner and has passed an order to issue a warrant of arrest against the petitioner fixing 30.04.2005 for return of the execution the same.A warrant of arrest in Artha Rin Adalat Case can be issued when money could not be realized by selling the case property or if the entire claim is not satisfied by selling the case property but in the instant case the case property has not been put into auction. Moreover, the petitioner being

a female there is a bar in passing an order for her arrest under section 56 of the Ain, 2003 and as such the order passed by the respondent No. 1 on 12.04.2005 (as contained in Annexure-J) is illegal. The petitioner being aggrieved by the order No.47 dated 01.09.2004 passed by the respondent No.1 in Artha Rin Execution Case No. 6 of 2000(as contained in Annexure -F) cancelling the order dated- 28.07.2004 and the order dated 12.4. 2005 passed by the Respondent No. 1 issuing a warrant of arrest against the petitioner who is female moved this writ petition before this court under Article 102 of the Constitution and obtained the present Rule.

4. None appeared on behalf of the petitioner and also for the Respondents at the time of hearing of the Rule though the instant writ petition was posted in the daily cause list with the name of the learned Advocates.

5. Mr. Sk.Shaifuzzaman, learned Deputy Attorney General for the Respondents has opposed the Rule by contending that the impugned orders are lawful and justified since the grounds taken by the petitioner in the writ petition are not supported by the Ain, 2003 and prayed for discharging the Rule.

6. We have meticulously perused the writ petition, supplementary affidavit and documents annexed thereto to the writ petition and also consulted relevant provisions of the Ain, 2003, the Code of Civil Procedure, 1908 and precedents of the Honorable High

Court Division and our Honorable Apex Court in respect of the impugned orders under challenge. On perusal of the material on record, it appears to us that on 28-07-2004 the judgment debtor petitioner submitted a petition before the Artha Rin Adalat No.1, Netrokona, allowing her to pay the decretal money in every three months by 8 (eight) equal installments. The decree holder bank Respondent No.2 did not raise any objection against the above petition of the judgment debtor petitioner. The learned court below found that the decree holder filed the Execution Case being no.06 of 2000 for 7,04, 454/- (Seven Lac four thousand and four hundred fifty four taka). The learned Court below by an order dated 28.07.2004 allowed the petition of the judgment debtor petitioner and directed to pay the decretal amount in eight installments each of quarterly payable failing which said order shall be deemed to be cancelled.

7. The material on record reveals that the learned court below in the order dated 28.07.2004 determined the date of payment of decretal amount in 08 (eight) installments with condition. In the said order, it has been determined by the court that in each installment the petitioner must pay TK. 88,181.75/- (Eighty eight thousand one hundred eighty one taka and seventy five paisa). The date of payment of installment has been fixed with condition that the judgment debtor is liable to pay the installments otherwise the order shall be deemed to be cancelled. The text of the said order goes as under;

“১ম কিসিড় ২৫/০৮/২০০৪, ২য় কিসিড় ২৫/১১/২০০৪, ৩য় কিসিড় ২৫/০২/২০০৫, ৪র্থ কিসিড় ২৫/০৫/২০০৫, ৫ম কিসিড় ২৫/০৮/২০০৫, ৬ষ্ঠ কিসিড় ২৫/১১/২০০৫, ৭ম কিসিড় ২৫/০২/২০০৬ ও ৮ম কিসিড় ২৫/০৫/২০০৬ ইং তারিখে পরিশোধে বাধ্য থাকিবে অন্যথা আদেশ বাতিল বলিয়া গণ্য হইবে”।

8. It appears from the material on record that in the impugned order dated: 01-09-2004 the learned Judge, Artha Rin Adalat, First Court, Netrokona found that judgment debtor petitioner on 25-08-2004 in the first installment only paid Tk. 50,000/- and on the date of impugned order paid Tk. 18000/- in total (50,000/- +18,000/-) =Tk 68,000/- and prayed for time for the payment of the balance amount of Tk. 20,181.75/-. Thereafter, the learned court below in the said impugned order dated 01. 9. 2004 observed that the petitioner did not comply with the order dated 28-07-2004 and accordingly its earlier order dated 28-07-2004 deemed to be cancelled and directed the judgment debtor to pay the entire decretal money.

9. It reveals from the material on record that the petitioner in this Writ Petition impugned the order passed by the respondent No.1 dated: 01-09-2004 cancelling the order dated 28.07.2004 and the order dated 12.04.2005 in respect of issuance of a warrant of arrest against the judgment debtor petitioner.

10. In the above premises, it appears to us that as per terms of the Rule in the instant writ petition, **two moot questions** that faces by this Division for determination and consideration for disposal. The **first**

question is whether the Artha Rin Adalat can cancel its earlier order in case of failure of payment of any installment of decretal money and the **second question** is whether the said Adalat can issue a warrant of arrest against woman for keeping in civil jail for compelling her to pay decretal money of the Artha Rin Adalat as per provisions of the Ain, 2003.

11. To address the **first question**, it would be profitable to reproduce the relevant provision of section 49 of the Ain, 2003 which runs herein below:-

৪৯। ঋণেরকিসিদ্ধি- (১) উপ-ধারা (৩) এর বিধানসাপেক্ষে অর্থ ঋণ আদালত, বিবাদী-দায়কেরআবেদনের প্রেক্ষিতে বা স্বীয় উদ্যোগে উপযুক্ত মনেকরিলে, ডিক্রীকৃত টাকা ১ (এক) বৎসরে ৪ (চার) টিসমকিসিদ্ধিতে পরিশোধের জন্য দায়িককেসুযোগপ্রদানকরিতেপারিবে।

(২) বাদী-ডিক্রীদার সম্মত থাকিলে, উপ-ধারা (৩) এ বিধানসাপেক্ষে, ডিক্রীকৃত টাকা ০৩ (তিন) বৎসরে ১২(বার)টিসমকিসিদ্ধিতে পরিশোধের জন্য আদালত, দায়িককেসুযোগপ্রদানকরিতেপারিবে।

(৩) উপ-ধারা (১) বা (২) এ উলি খিত কোনএকটিকিসিদ্ধি বকেয়াহওয়ামাত্রইসমুদয়বকেয়াতখনই পরিশোধিতব্য হইবেএবং তদ্উদ্দেশ্যে জারীকার্যকরযথাবিধিঅনুসৃতহইবে।

12. On careful reading of above section 49 (1) of the Ain, 2003, it appears to us that the court is empowered to pass appropriate order if it thinks fit on the application of the judgment debtor to afford him to pay the decretal amount by 04 equal installments in a year. Under section 49(2) of the Ain, 2003 if the decree holder agrees about the prayer for payment of decretal amount in installments by the judgment debtor, in that case, the court may allow to pay the decretal money within 03 years in 12 equal installments. From the plain

reading of above section, it appears that it is the discretionary power of the court in allowing the petition of the judgment debtor for payment of decretal money in said installments but it is not mandatory for the court to allow the prayer of the judgment debtor for payment of decretal money in installments. As per section 49(3) of the Ain, 2003 if any installment becomes due then instantly entire dues will be payable and for that purpose execution case shall be proceeded in due course.

13. **In the case of Jahangir Kabir Chowdhury Vs. Bangladesh Government, represented by Secretary, Ministry of Law, Justice and Parliamentary Affairs, Bangladesh and others reported in 22 BLC (AD) 139** wherein our Hon'ble Apex Court observed, "Section 49 authorizes the Adalat to pass appropriate order that if it deems fit on the application of the judgment-debtor to afford him to pay the decretal amount by four equal installments in a year. Even if the decree-holder agrees, the Adalat may allow repay the dues within three years in twelve equal installments" It appears that under sub section (1) and (2) of section 49 of the Ain, 2003 the law authorizes the court to pass appropriate order to enable the judgment debtor to pay decretal amount in 04(four)equal installments in a year and if the decree holder agrees, the court may pass an order to enable the judgment debtor to pay decretal amount in 12 installments in 03(three) years. But sub-section (3) of section 49 of the Ain, 2003 lays down stringent condition that if installment under sub sections (1)

and (2) becomes due in that case the entire decretal amount shall instantly be payable and for that purpose the execution case shall be followed in due course. So, the court has no legal bar in cancelling its earlier order of enabling the judgment debtor to pay decretal amount in installment if subsequently even a single installment becomes due.

14. From perusal of the order dated 28-07-2004, it appears that the learned court below gave an opportunity to the judgment-debtor petitioner to pay the decretal amount in eight equal installments and also ordered that the petitioner shall be liable to pay the installment on the date fixed otherwise the order shall be deemed to be cancelled. In the impugned order dated 01-09-2004 the learned Judge, Artha Rin Adalat, First Court, Netrokona followed the earlier order and as per the order dated 28-7-2004 the same order has been cancelled.

15. Upon overall analysis of the factual gamut of the case conjunct with the relevant provision of section 49 (3) the Ain, 2003 our considered view is that due to the failure of payment of the installment of the decretal money by the petitioner the impugned order dated 01.09. 2004 passed by the respondent No.1 cancelling the order of dated 28.07. 2004 by which the petitioner was allowed to pay the loan money along with interest in 8 installments appears to be not unlawful and the said impugned order has been passed according to law and it is crystal clear that the Artha Rin Adalat pursuant to section

49(3) of the Ain, 2003 can cancel its earlier order in case of failure of payment of any installment by the Judgment debtor.

16. Now we would like to turn to address the **second question** that is posed in this Writ Petition.

17. It is stated in the supplementary affidavit to the writ Petition that in pursuance of section 56 of the Ain, 2003, no warrant can be issued against woman for execution of decree. On perusal of section 56 of the Ain, 2003, no such provision is made in section 56 of the Ain, 2003 and the said section relates to, "Use of money deposited as security return etc."

18. To our mind, the judgment debtor petitioner has tried to mean section 56 of the Code of Civil Procedure, 1908. To appreciate the **second question**, we feel to reproduce the provision of section 56 of the Code of Civil Procedure, 1908 and the said provision goes as under;

"56. Prohibition of arrest or detention of women in execution of decree for money- Notwithstanding anything in this part, the Court shall not order the arrest or detention in the civil prison of a woman in execution of a decree for payment of money."

19. It appears to us that after enactment of the Ain, 2003, section 56 of the Code of Civil Procedure, 1908 mentioned above has got no application in the matter of arrest or detention of women in

execution of decree for money as because a new provision under section 34 of the Ain, 2003 has been introduced which is elaborate, exhaustive provision for issuing for warrant of arrest to compel the judgment debtor for payment of the decretal amount.

20. On careful scrutiny of section 34 of the Ain, 2003, it appears that there are 13 sub-sections under section 34 which have inserted provisions relating to all about detention in civil jail for compelling judgment debtor for payment of decretal money. From the above section, we find that sub-sections 2, 4 and 11 of section 34 of the Ain, 2003 are relevant which provide provisions for exempting three categories of persons from keeping in civil jail for compelling for payment of decretal money.

21. In order to appreciate **the second question**, we think that it would be profitable to reproduce the provisions of section 34(1), 34(2), 34(3), 34(4) and 34 (11) of the Ain, 2003 for better understanding which runs as under:-

ধারা-৩৪। দেওয়ানী আটকাদেশ:- (১) উপ-ধারা (১২) এর বিধান সাপেক্ষে, অর্থ ঋণ আদালত, ডিক্রীদার কর্তৃক দাখিলকৃত দরখাস্তের পরিপ্রেক্ষিতে, ডিক্রীর টাকা পরিশোধে বাধ্য করিবার প্রয়াস হিসাবে, দায়িককে ৬(ছয়) মাস পর্যন্ত দেওয়ানী কারাগারে আটক রাখিতে পারিবে।

(২) উপ-ধারা (১) এর উল্লিখিত বিধান, মূল ঋণ গ্রাহীতার মৃত্যুর কারণে পারিবারিক উত্তরাধিকার আইন অনুযায়ী স্থলাভিষিক্ত দায়িক-ওয়ারিশদের ক্ষেত্রে প্রযোজ্য হইবে না।

(৩) জারীমামলা কোন কোম্পানী (Company) যৌথ কারবারী প্রতিষ্ঠান (Firm) অথবা অন্য কোন নিগমবদ্ধ সংস্থা (Corporate Body) এর বিরুদ্ধে কার্যকর করিতে বিবাদী দায়িককে দেওয়ানী কারাগারে আটক করা আবশ্যিক হইলে, উল্লিখিত কোম্পানী, যৌথ কারবারী প্রতিষ্ঠান বা নিগমবদ্ধ সংস্থা আইন বা বিধি মোতাবেক যে সকল স্বাভাবিক ব্যক্তির (Natural person) সমন্বয়ে গঠিতবলিয়া গণ্য হইবে, সেইসকল ব্যক্তি এককভাবে ও যৌথভাবে দেওয়ানী কারাগারে আটকের জন্য দায়ী হইবেন।

(৪) উপ-ধারা (৩) এর বিধান এইরূপ কোন ব্যক্তির বিরুদ্ধে কার্যকর হইবে না যিনি ডিক্রীর সংশ্লিষ্ট ঋণ গ্রহণের পরবর্তীতে উত্তরাধিকার সূত্রে উপরি উল্লিখিত কোন ব্যক্তি বা ব্যক্তিবর্গের স্ফুলাভিষিক্ত হইয়াছেন।

(১১) ১৮ (আঠার) বৎসরের কম বয়স্ক কোন ব্যক্তিকে এই ধারার অধীনে ডিক্রী কার্যকর করার নিমিত্ত প্রেফতার এবং দেওয়ানী কারাগারে আটক করা বা রাখা যাইবে না।

(Underlinessupplied for emphasis).

22. From careful perusal of section 34(2), 34(3) and 34(11) of the Ain, 2003, the provision of civil imprisonment would not be applicable against three categories of persons and it is crystal clear in the three categories mentioned in section 34(2), 34(4) and 34(11) of the Ain, 2003 or other sub-sections of section 34 of Ain, 2003, the another category, “woman” has not been included in the section 34 of the Ain, 2003 who are exempted from civil imprisonment for execution of decretal money and non inclusion of woman in section 34 of the Ain, 2003 gives clear and unambiguous impression that issuance of the warrant of arrest against woman

for keeping in civil imprisonment for execution of decretal money of Artha Rin Adalat would not be unlawful.(Underlines supplied for emphasis).

23. In support of our observations,made above we find support in **the case of Kanika Begum Vs. Artha Rin Adalat No. 3 Dhaka and others reported in 64 DLR (2012) 276**, wherein their Lordships observed, “**In the case of Hazera Begum Vs. Artha Rin Adalat, 54 DLR, 78**, the High Court Division had decided that a woman could be arrested and detained in the civil prison by Artha Rin Adalat in execution of a decree in view of the section 6(ka) of the Artha Rin Adalat Ain, 1990. But that decision ultimately in the year 2007 had been repealed by the Appellate Division in **5 ADC 220** as referred to above. In so doing our Appellate Division took into account the different provisions of Artha Rin Adalat Ain, 1990 in particular section 5(4), (5), section 6(ka) read with section 55,56 and Order 21 of the Code of Civil Procedure and finallydecided:-

The legislature was required to make express provision in section 6(ka) to exclude the operation of section 56 of the Code of Civil Procedure, but it was not done so. Section 6(ka) of the Artha Rin Adalat Ain, 1990 cannot, therefore, be construed to exclude the operation of section 56 of the Code of Civil Procedure in matters of execution of any decree passed by the Artha Rin Adalat. Any other construction of section 6(ka) would lead to absurdity and cause failure

of justice. The impugned judgment and order passed, by the learned Judges of the High Court Division is therefore erratic and perverse.”

24. Their Lordships in the **case of Kanika Begum (Supra)** further observed, “We are in respectful agreement with the said decision since the same has been decided under the provisions of the previous Artha Rin Ain, 1990. Now the question is whether with the introduction of Artha Rin Adalat, 2003, there would be a change in the interpretation of law in this respect. A new provision under section 34 has been introduced under Ain, 2003 that makes as elaborate, exhaustive and independent provision for issuing warrant of arrest. It is well settled that the provision of special law shall override all other laws in force that includes the Code of Civil Procedure. The provision of section 34 of the Ain, 2003 is absolutely independent and self-contained. In the decision of **Provat Kumar Vs. Agrani Bank 15MLR (AD) 96**, our Appellate Division maintained that the above provision of section 34 is exclusive, independent and exhaustive which cannot be subjected to or circumvent by other provisions of Ain.” Their lordship further observed, “the Appellate Division thus upheld the decision of the High Court Division reported in **Provat Kumar Vs. Agrani Bank Rajshahi, 15 MLR 122** and further observed that we are in respectful agreement with the decision of **Provat Kumar’s case** and hold that the said decision fortified what we have already discussed on the issue and for that **the ratio decidendi of Hazera Begum’s case in 5 ADCas** referred to above is

clearly distinguishable.”Their Lordships further observed that therefore, it can be hold since section 34 of the Ain has not made any synonymous provision like that of section 56 of the Code of Civil Procedure, the Court can exercise its discretion on the same but in so doing there cannot be any gender discrimination as the same would certainly go against the principle of the Constitution of the Republic. Finally, their Lordships observed that directing warrant of arrest against the woman is not illegal within the provision of section 34 of the Artha Rin Adalat Ain, 2003.

25. In the **case of Mst. Sufia Khatun Vs. Artha Rin Adalat Khulna and others reported in 1LM (AD) page 226 = 13ADC 164=19 ALR (AD) 96** our Honorable Apex Court observed, “With regard to the petitioner being a lady, it was observed that no provision has been made in Artha Rin Adalat Ain, 2003 for exempting a woman judgment-debtor from being arrested for the purpose of realization of the decretal amount as per section 34 of the special law. The High Court Division went on to elaborate that section 34 sub-sections (2) and (11) have exempted certain other persons from being arrested and non-inclusion of a woman judgment debtor in the list of exempted persons indicate that this category is not exempted from being arrested.”

26. From the discussion made above, it is patently clear that the Artha Rin Adalat can lawfully issue warrant of arrest against

Judgment debtor who is a woman for keeping her in civil jail for compelling to pay the decretal amount and **the second question** is addressed accordingly.

27. In the instant petition, the petitioner has further stated that a warrant of arrest in Artha Rin Adalat case can only be issued when loan money could not be realized by selling the case property or if the entire claim is not satisfied by selling the case property or if the entire claim is not satisfied by selling the case property but in the instant case the property has not been put into auction. On perusal of “Annexure-F” it appears that the above statement of the petitioner is absolutely false. From perusal of “Annexure-F”, it appears that the case property was put on auction twice but the judgment debtor frustrated the auction proceeding. In this regard, in order to appreciate the above matter we like to reproduce sub sections 9 and 10 of section 34 of the Ain, 2003 which runs as under:

৩৪। দেওয়ানী আটকাদেশঃ-(৯) এই ধারার অধীনে আদালত কোন দায়িককে দেওয়ানী কারাগারে আটক করার আদেশ প্রদান করিবেনা, যদি না তৎপূর্বে অন্তর্ভুক্ত একটি নিলাম বিক্রয় কার্যক্রম অনুষ্ঠিত হইয়া থাকে এবং উহার দ্বারা ডিক্রীদারের প্রাপ্য পরিপূর্ণভাবে আদায় হইয়া থাকে।

(১০) যদি কোন কারণে উপ-ধারা (৯) এর অধীন একটি ও নিলাম বিক্রয় কার্যক্রম অনুষ্ঠান করা সম্ভব না হয়, তবে সেই ক্ষেত্রে দায়িককে সরাসরি গ্রেফতার ও দেওয়ানী কারাগারে আটক করা যাইবে।

28. From the above provision mentioned in section 34 of the Ain, 2003, it appears that the judgment debtor can directly be arrested and kept in civil imprisonment if any auction for sale of property

could not be held for any reason under sub-section (9) of the Ain, 2003. It appears from material on record auction was held twice. So, it is patently clear that in such situation issuance of warrant of arrest against the petitioner of the instant Writ Petition was also not illegal. We find support **in the case of Provat Kumar Das Vs. Manager, Agrani Bank, Rajshahi & another reported in 15MLR(AD) 2010 page 96** wherein their lordship observed, “When auction sale of the schedule property could not be held due to non-availability of purchasers inspite of taking step by the decree-holder, the Artha Rin Adalat is empowered under section 34 to pass order of civil imprisonment against the judgment debtors to compel payment of decretal dues”. **In the case of Abdur Razzak Vs Artha Rin Adalat reported in 65DLR (AD) page 111** wherein their lordships observed, “The Adalat shall not pass any order of Civil Detention until process of holding of the auction sale of the property of the judgment debtor’s has been resorted to at least once. That power under sub-section (1) thereof cannot be exercised unless the conditions stipulated therein are fulfilled”. It has already been observed that the case property was put on auction twice but the judgment debtor frustrated the auction proceeding. So, we find that the ground taken by the petitioner is not correct and accordingly the said court had no legal bar to issue warrant.

29. Considering the facts and circumstances, relevant provisions of law and the precedents cited above, we are constrained

to hold that the impugned orders dated 01.09.2004 passed by the respondent no.1 cancelling the order dated 28.07.2007 by which the petitioner was allowed to pay the loan money along with interest in 8 installment and the order dated 12.04.2005 passed by the same respondent issuing an warrant of arrest against the petitioner Mrs. Aleya Begum who is woman are quite lawful.

30. In view of the forgoing threadbare discussion, we find no merit in the Rule.

31. In the result, the Rule is discharged, however, without any order as to costs.

32. The order of stay granted earlier by this Division is hereby recalled and vacated. Since the Execution Case bearing No. 6 of 2000 is long pending that is why the Executing Court is directed to dispose of the case expeditiously preferably within 03(three) months from the date of the receipt of this judgment and order.

33. The office is directed to communicate this judgment and order to the concerned Executing Court at once.

K.M. Kamrul Kader, J.

I agree.

