

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

WRIT PETITION NO.1670 2023

IN THE MATTER OF:

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

And

IN THE MATTER OF:

Syed Mohammad Morshed

... Petitioner

-vs-

***Government of the People's Republic of
Bangladesh, represented by the Secretary,
Ministry of Law and Justice, Bangladesh
Secretariat, Dhaka-1000 and others.***

... Respondents.

And

Mr. Md. Raihan Alam, Advocate

.... For the Petitioner.

Mr. S.M. Rafiqul Islam Rabbi, Advocate

....For the Respondent No.4

Heard and judgment on:23.01.2024

Present:

Mrs. Justice Farah Mahbub.

And

Mr. Justice Muhammad Mahbub Ul Islam

Farah Mahbub, J:

In this Rule Nisi, issued under Article 102 of the Constitution of the People's Republic of Bangladesh, the respondent No.3 have been called upon to show cause as to why a direction should not be given upon the Bangladesh Bank, respondent No.3 to exercise its jurisdiction as contemplated under Sections 45 and 49(1)(Cha) of the Bank Companies

Act, 1991 to dispose of the petitioner's application dated 05.02.2023 (Annexure-C) in connection with the loan liabilities of the petitioner.

At the time of issuance of the Rule operation of the auction process, scheduled to be held on 09.02.2023, according to auction notice dated 19.01.2023 published by respondent No.4 in the "Daily Purbokone" (Annexure-A) was stayed by this Court for a prescribed period.

In view of the statements so made in the writ petition, we have heard Mr. Md. Raihan Alam, the learned Advocate appearing for the petitioner and Mr. S.M. Rafiqul Islam Rabbi, the learned Advocate appearing for the respondent No.4.

In this regard, Mr. Md. Raihan Alam, the learned Advocate appearing for the petitioner submits that pursuant to the direction so given by this Hon'ble Court at the time of issuance of Rule, the petitioner has deposited the entire loan amount with interest. At present they have no liability in the name of M/s. Barket Enterprise with the respondent-bank. In the given context he prays for passing necessary order.

At this juncture, Mr. S.M. Rafiqul Islam Rabbi, the learned Advocate appearing for the respondent-bank upon placing the application, earlier filed for vacating the order of stay submits that the petitioner had availed a credit facility against the respective mortgaged properties. However, since the loan became classified hence, for recovery of the defaulted loan amount the respondent bank had published the auction dated 19.01.2023 in the respective newspaper. Fact remains at present the petitioners has no liability in the name of M/s. Barket Enterprise with the respondent-bank since in compliance of the direction given by this Hon'ble Court said amount has been paid but beyond the prescribed

period as has been fixed by this Hon'ble Court at the time of issuance of the Rule.

In the given context and also, considering the object for promulgation of Artha Rin Adalat Ain, 2003 we find that justice will better be served by giving direction upon the petitioner to take initiatives towards resolving the issue in question with the respondent-bank within 30(thirty) days from the date of receipt of the copy of this judgment and order.

If, however, the petitioner fails to take any initiatives to that effect, the respondent-bank is at liberty to proceed in connection with the issue in question in due compliance of law.

With the above observations and direction, this Rule is accordingly disposed of without any order as to costs.

Communicate the judgment and order to the respondents concerned at once.

Muhammad Mahbub Ul Islam, J:

I agree.