

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

Writ Petition No. 12744 of 2023.

In the matter of:

An application under article 102 (2) of the
Constitution of the People's Republic of
Bangladesh.

-And-

In the matter of:

AKM Shamsuddoha.

..... Petitioner

-Versus-

Judge, Artha Rin Adalat No.2, Dhaka and
others.

. . . Respondents.

Mr. Md. Asaduzzaman with
Ms. Tasnuva Shelly, Advocate

. . . For the petitioner.

Mr. Sikder Mahmudur Razi, Advocate
. . For the respondent No.2.

Present:

Mr. Justice J. B. M. Hassan

and

Mr. Justice Razik Al Jalil

Heard and Judgment on 30.11.2023.

J. B. M. Hassan, J.

The petitioner obtained the Rule Nisi in the following terms:

“Let a Rule Nisi be issued calling upon the respondents No. 1 and 2 to show cause as to why the order No. 59 dated 01.10.2023 passed by the learned Judge, Artha Rin Adalat No.2, Dhaka in Artha Rin Case No. 3130 of 2015 rejecting the adjournment application filed by the petitioner for submitting specimen signature and thereby fixing the date of judgment (Annexure-A to the writ petition) should not be declared to be without lawful authority and of no legal effect And as to why the respondents should not be directed to allow the petitioner to submit the specimen signature to the Forensic Laboratory

(Dhaka) Bangladesh Police, CID, Malibag, Dhaka and/or pass such other or further order or orders as to this Court may seem fit and proper.”

The respondent Bank instituted the suit for recovery of loan wherein the present petitioner has been included as defendant No.5 alleging director and guarantor to the loan of the principal borrower company. In the suit, the petitioner denied his signature as guarantor and prayed for an order for examination of disputed signature by the expert. The Adalat allowed the prayer and sent the personal guarantee for expert opinion to the Criminal Investigation Department (CID). But the CID on 27.04.2023 required some other papers, in particular, specimen signatures of the petitioner put at the relevant time. The petitioner filed an application seeking time to supply the specimen signature as required by the CID but the Adalat by the impugned order dated 01.10.2023 rejected the said prayer which led the petitioner to file this writ petition.

Mr. Md. Asaduzzaman learned Advocate for the petitioner submits that since the Adalat allowed to examine the signature by the expert and in that connection since the expert required some more papers, the Adalat ought to have allowed the petitioner's time prayer for providing specimen signatures of the relevant time. He further submits that in the meantime, the petitioner has already procured those signatures and for ends of justice he may be allowed to submit the same before the Adalat.

Mr. Sikder Mahmudur Razi, learned Advocate for the respondent No.2 contends that the suit was filed in the year 2015 and considering the prolongation of the suit, the Adalat rightly rejected the petitioner's

application denying to adjourn further and fixed the suit for pronouncement of judgment.

We have gone through the writ petition, impugned order, CID report dated 27.04.2023 and other materials on record.

It appears that the Adalat was satisfied to have expert opinion regarding the disputed signature and accordingly, sent the same to the CID for their opinion. But the CID on 27.04.2023 required some specimen signatures of the petitioner made at the relevant time. Since the opinion is yet to be submitted and the CID required petitioner's specimen signatures made at the relevant time and since in the meantime, the petitioner has procured the signatures, we are of the view that justice would be best served, if the petitioner is allowed to supply the required specimen signatures. In the circumstances, the Rule Nisi finds merit.

In the result, the Rule is made absolute.

The order No. 59 dated 01.10.2023 passed by the learned Judge, Artha Rin Adalat No.2, Dhaka in Artha Rin Case No. 3130 of 2015 rejecting the adjournment application filed by the petitioner for submitting specimen signatures and thereby fixing the date of judgment (Annexure-A to the writ petition) so far as it relates to the petitioner, is hereby declared to have been passed without lawful authority and is of no legal effect.

The Adalat is directed to accept the required specimen signatures of the petitioner and sent the same to the CID, if those are filed on the next fixed date failing which the Adalat shall proceed with the suit in accordance with law.

Since it is a suit of 2015, the Adalat is directed to conclude the same as expeditiously as possible.

Communicate a copy of this judgment and order to the respondents at once.

Razik Al Jalil, J

I agree.