

Present:-

Mr. Justice Mahmudul Hoque

Civil Revision No.1430 of 2024

Most. Shahida Begum wife of late Ayub
Ali and others

... Petitioners

-Versus-

Bangladesh House Building Finance
Corporation, represented by its Regional
Manager, Regional Office, Kushtia

...Opposite-party

Mr. K.M. Mamun-Or-Rashid, Advocate

...For the petitioners

Mr. Mohammad Saiful Islam, Advocate

...For the opposite-party

Judgment on 1st July, 2025.

On an application under Section 115(1) of the Code of Civil Procedure this Rule was issued at the instance of the petitioners calling upon the opposite party to show cause as to why the impugned judgment and order No.116 dated 05.03.2024 passed by the learned District Judge, Kushtia in Miscellaneous Execution Case No.01 of 2008 rejecting the application for staying the auction proceeding dated 22.04.2024 with prayer for paying the decretal amount by 4(four) installments in 1(one) year should not be set aside and/or pass such other or further order or orders as to this Court may seem fit and proper.

Opposite party Bangladesh House Building Finance Corporation (BHBFC) filed Miscellaneous Case No.139 of 2002 in the Court of learned District Judge, Kushtia for recovery of loan money amounting to Tk.16,34,821.23 along with interest accrued thereon. The case was decreed on 16.04.2007. Thereafter, Bangladesh House Building Finance Corporation (BHBFC) put the decree in execution by filing Miscellaneous Execution Case No.01 of 2008. When execution proceedings was proceeded the petitioner as judgment-debtors appeared in the execution case and filed application praying for time to satisfy the decree by paying loan amount. Learned District Judge allowed time to pay the decretal amount within 1(one) year by 6(six) installments in the year 2019, but the judgment-debtors failed to pay the money within the time allowed by the court. Rather, prayed for further 1(one) year time to pay the dues by filing application. The learned District Judge after hearing the application rejected the same and took step for selling the property in auction by publishing notice in the dailies. Judgment-debtors by filing an application on 05.03.2024 prayed for 1(one) year time to pay the dues by 4(four) installments and also prayed for stay

auction procedure. The executing court after hearing rejected the application. At this juncture, the petitioners moved this Court by filing this revision and obtained the present Rule and order of stay.

Both the learned Advocates for the parties submit that the Rule was issued by this Court subject to payment of Tk.7,00,000/- (taka seven lac) within 4(four) working days from the date of issuance of the Rule. The petitioners accordingly complied with the order and filed affidavit-in-compliance. Order of stay was further extended on 02.07.2024 for 6(six) months directing the petitioners to deposit the rest amount within 6(six) months. But the judgment-debtors petitioner did not comply with the direction by paying rest amount to the decree-holder. Thereafter, decree-holder filed an application for vacating the order of stay for non-compliance of the order of the Court. When the application was taken up for hearing, the judgment-debtors petitioner humbly prayed for 1(one) month time to make payment of rest amount. Accordingly, the judgment-debtors petitioner by filing affidavit-in-compliance stated that they made payment of rest amount to the decree-holder on 26.06.2025 and 30.06.2025.

Learned Advocate for the decree-holder opposite party conceded that the petitioner judgment-debtors already paid the amount to the decree-holder. Since claim of the decree-holder as made in the execution case have been paid by the judgment-debtors, I think that there is no necessity on the part of the decree-holder to proceed with the execution case anymore and the petitioners are also not required to linger this matter further.

Accordingly, I find that the matter in dispute between the parties has become settled on payment of outstanding dues to the decree-holder and as such, the Rule is liable to be disposed of.

In the result, the Rule is disposed of, in the light of observations made wherein above, however, without any order as to costs.

The learned District Judge, Kushtia is hereby directed to dispose of the execution case with full satisfaction in accordance with law.

The order of stay stands vacated.

Communicate a copy of the judgment to the Court concerned at once.