

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

Writ Petition No. 7215 of 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:

Md. Rafiqul Islam

....Petitioner

Versus

Uttara Bank Limited, represented by its  
Manager, Sir Iqbal Road, Khulna and others

....Respondents

Mr. M Tashdid Anwar, Advocate

....For the Petitioner

Mr. Ali Mustafa Khan, Advocate

....For the Respondent No. 1

Present:

Mr. Justice Md. Iqbal Kabir

And

Mr. Justice Md. Akhtaruzzaman

Judgment on 29.05.2024.

Md. Iqbal Kabir, J:

On perusal, it appears at the time of issuance of Rule, this Court passed an interim order whereby auction notice published by the respondent was stayed subject to the condition that the petitioner shall deposit Tk. 40% of the total amount mentioned in (Annexure-C) to the writ petition, to the concerned bank, within 3(three) months from the date and the petitioner shall pay off the loan amount in 3(three) equal installments within 9(nine) months from date, failing which the petitioner shall pay a fine of Tk.1,00,000/- (Tk. one lac). The petitioner was also directed to submit an affidavit-in-compliance before this Court annexing the money payment receipt positively and without fail, every 3(three) months from the date. The parties shall be at liberty to mention this matter before this Court after 3(three) months for necessary order. This Court observed that if the order of this Court is not complied with as per terms and conditions of the order of this Court, the Rule and the order of stay shall stand discharged and vacated at once and for the realization of the remaining

outstanding loan amount, necessary order will be passed after 3(three) months.

Mr. Ali Mustafa Khan, the learned Advocate for respondent No. 1 by filing an application for discharging the Rule brings notice to this Court that the petitioner did not deposit such certain amount or installment to the Bank as directed by this Court. According to him, for non-compliance of the Court's order, the Rule has become infructuous. He further submits that this Court passed a default order, thus, there is no scope to allow the petitioner to keep the Rule pending for an indefinite period; the Rule has to be discharged with cost.

Mr. M Tashdid Anwar, the learned Advocate for the petitioner did not deny or oppose the same. Therefore, this Court finds substance in the submissions made by respondent No. 1.

Accordingly, Rule Nisi is discharged for noncompliance with a cost of Tk.1,00,000/- (Tk. one lac).

The concerned bank is directed to compute or add the said cost with the loan amount and realize the same. After realization of that money, the bank is directed to deposit the said cost Tk.1,00,000/- (Tk. one lac) to the Diabetic Samity, Lalmonirhat, A/C No. 365711100116977, Uttara Bank Limited, Lalmonirhat.

The interim order granted at the time of issuance of the Rule Nisi is hereby recalled and vacated.

Communicate the order.

Md. Akhtaruzzaman, J:  
I agree.