

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

**EXECUTION CASE NO. 02 OF 2024
(Arising out of Admiralty Suit No. 23 of 2019)**

In the matter of:

Md. Azharul Islam and others
..... Plaintiff-decree holders

-VERSUS-

M.V. Crystal Gold, IMO No. 840024
Flag: Bangladesh and others.

..... Defendants-judgment debtor
Ms. Farzana Sharmin, Advocate
..... For the decree holders

The 16th January, 2025

Present:

Mr. Justice Zafar Ahmed

The matter has come up in today's daily cause list for passing necessary order.

Earlier, the decree-holders as plaintiff filed Admiralty Suit No. 23 of 2019 claiming for a decree for recovery of damages and compensation for an amount of Tk. 1,14,56,445.84 against the principal defendants. Thereafter, in order to avoid further costs and expenses of the proceedings the plaintiffs and the defendant No. 2 (owner of the vessel) through mutual discussion agreed to settle the dispute amicably out of

the Court. Accordingly, the parties signed and executed a “Settlement Agreement”, on 5th August, 2019.

Thereafter, both the parties filed a joint application before the Court to pass decree and dispose of the Admiralty Suit No. 23 of 2019 in terms of the “Settlement Agreement”. Upon hearing the parties, the suit was decreed on 22.08.2019 for an amount of BDT 1,05,00,000/- being the full and final claim of the plaintiffs in terms of the said “Settlement Agreement”.

It is stated in the instant application for execution of the decree that earlier the plaintiff Nos. 2-10 filed the Admiralty Suit through their lawful attorney, the plaintiff No. 1. The original power of attorney being No. 7919, dated 21.05.2019 executed in this regard by the plaintiff Nos. 2-10 was submitted in the Admiralty Suit and the same is part of the case record.

In the instant execution case, this Court, vide order dated 20.08.2024 directed the Marshal of this Court to submit a report in respect of the sale proceeds of the vessel M.V. Crystal Gold which was earlier sold in auction on 25.10.2018. The Marshal of the Court submitted the report on 01.09.2024. It is stated in the said report:

“This is a report regarding the remaining amount balance of the vessel M.V. CRYSTAL GOLD, placed as per Hon’ble Court’s order dated 20.08.2024.

This is for your Lordship’s kind notice that there are eight suits filed against the vessel M.V. CRYSTAL GOLD being No. 10/2015, 69/2015, 27/2017, 28/2017, 47/2017, 74/2017, 23/2019 and 55/2018.

Execution Case No. 02/2024 (arising out of Admiralty Suit No. 23 of 2019) pending for its disposal in connection with defendant No. 1 vessel M.V. CRYSTAL GOLD.

The instant Admiralty Suit was decreed, for an amount of BD Tk. 1,05,00,000/- (One crore and five lac only) by the judgment dated 22.08.2019 passed by his Lordship Mr. Justice Muhammad Khurshid Alam Sarkar.

The vessel M.V. CRYSTAL GOLD was sold in auction in Admiralty Suit No. 28 of 2017 on 25.10.2018 at an amount of BDT 11,00,00,000/- (Eleven crore). Now BD Tk. 7,46,36,500/- (Seven Crore forty six lac thirty six thousand and five hundred only) is remaining in the Marshal’s account up to this date against the sale proceed of the vessel M.V. CRYSTAL GOLD after making the following payment:

- | | | |
|----|--|--------------------|
| 1. | 1% Marshal fee | Tk. 11,00,000.00 |
| 2. | As per Court’s Order
10.07.2019
in Execution <u>Case No. 03/2019</u>
(Arising out of Ad. Suit No.
55/18) | Tk. 1,63,80,000.00 |

- | | | |
|----|--|----------------------------|
| 3. | As per Court's Order
23.07.2023
in Execution <u>Case No. 01/2023</u>
(Arising out of Ad. Suit No.
28/19) | Tk. 36,33,500.00 |
| 4. | As per Court's Order
20.11.2023
in Execution <u>Case No. 02/2023</u>
(Arising out of Ad. Suit No.
47/17) | Tk. 1,42,50,000.00 |
| | | Total = Tk. 3,53,63,500.00 |

Accordingly, the remaining balance is Tk. 7,46,36,500.00”.

Clause 2(3) of the “settlement Agreement”, which is part of the decree, runs as follows:

“The settlement amount of BDT 1,05,00,000/- (one crore and five lac) only will be paid to the Second Party from the sale proceeds of the vessel M.V. CRYSTAL GOLD laying at the account of the Marshal of the Admiralty Court and the First Party will have no objection thereon.”

The present decree-holders are the 2nd parties to the said “Settlement Agreement”. A registered power of attorney being No. 7919 dated 21.05.2019 executed by the present decree-holder Nos. 2-10 (2. Biswajit Baidya, Passport No. BW0890575, 3. Md. Jahidul Hassan, Passport No. BF0906732, 4. A.K.M. Rafiqul Islam, Passport No. BK0568189, 5. Md. Kibria, Passport No. BF0525890, 6. Md. Bahauddin, Passport No. AD9583114, 7. Md. Ayub, NID No. 1526101081001, 8.

Habil Khan, Passport No. BW0477189, 9. Md. Golam Kibria, NID No. 1594309022632, and 10. Mohammed Ariful Alam, NID No. 5551879017) authorizing the present decree-holder No. 1 (Md. Azharul Islam, NID No. 1026645745) has been annexed to the execution application as Annexure-B. Clause 7 of the said power of attorney has authorized **MD. AZHARUL ISLAM** (decree-holder No. 1) to sign and execute all affidavits, documents, etc. in obtaining a contested or compromise judgment and decree; file execution case and to receive decretal amount from Court in his own name on behalf of decree-holder Nos. 2-10 which will subsequently be disbursed to them.

Clause 5 of the “Settlement Agreement”, which is part of the compromise decree, states:

“The Second parties agree and authorize their constituted Attorney Md. Azharul Islam, son of Md. Farid Ahmed and Aleya Begum, bearing National ID No. 1026645745, to receive the whole settlement amount of BDT 1,05,00,000/- (one crore and five lac) only from the Marshal of the Admiralty Court in his name on behalf of the Second Parties and then distribute the settlement amount (excluding legal costs and his professional fees) proportionately amongst

them according to their claim stated in the plaint of the said Admiralty Suit in due course”.

In view of the provisions contained in clause 7 of the power of attorney and clause 5 of the “Settlement Agreement”, the Marshal of this Court is hereby directed to disburse the amount of BDT 1,05,00,000/- (One crore and five lac) in favour of **Md. Azharul Islam, NID No. 1026645745** upon confirmation of his identity as early as possible preferably within 14 working days from the date of receipt of this order.

With the above observations and directions, the execution case is disposed of.

Mazhar/BO