

Present:
Mr. Justice Mohammad Bazlur Rahman
and
Mr. Justice Md. Ruhul Quddus

Writ Petition No.7663 of 2010

Sarker Mohammad Arifuzzaman
...Petitioner
-Versus-
Bangladesh Bank and others.
...Respondents

No one appears for the petitioner
Mr. Md. Forrukh Rahman, Advocate
... for respondent 2

Judgment on 13.06.2013

Md. Ruhul Quddus, J:

The Rule at the instance of a defaulting-borrower was issued challenging inclusion of his name in the list of Credit Information Bureau, Bangladesh Bank (hereinafter called CIB), which is evident from Memo No. Recovery-2/CIB/Report/21284-21285 dated 28.4.2010 issued by the Retail Customer Department-2, CIB Cell of Janata Bank Ltd. (herein proforma respondent 4).

The matter has been appearing in the cause list for several days with name of the learned Advocate for the petitioner. We took it up for hearing on 06.06.2013 but no one for the petitioner appeared. Mr. Forrukh Rahman, learned Advocate for respondent 2, however, appeared and made his submissions. Today it has appeared at the top of the cause list as a part heard matter with name of the

petitioner's Advocate, still he remains absent. In such a position we take it up for disposal.

Facts leading to issuance of the Rule as it appears from the record, in brief, are that the petitioner took certain amount of loan from Mercantile Bank Ltd. (herein respondent 3) under different heads, but failed to repay the loan within the stipulated time. As a result the creditor-bank published an auction notice in the Daily Kaler Kantha dated 28.04.2010 under section 12 of the Artha Rin Adalat Ain, 2003 (hereinafter called the Act, 2003). Challenging the said auction notice the petitioner had moved with Writ Petition No. 3480 of 2010 in the High Court Division and obtained a Rule with an interim order of stay on condition that he would pay a sum of Taka 20,000,00/- (twenty lac) only within one month and would pay the remaining amount in four equal installments within next six months, in default the Rule should stand discharged. Accordingly, the petitioner paid the first installment of Taka 20,000,00/- (twenty lac) only. During pendency of the Rule, the respondent 1-bank included his name in the list of CIB, which was evident from a letter of Janata Bank Ltd. as contained in Memo No.Recovery-2/CIB/Report/21284-21285 dated 28.4.2010. In that event the petitioner moved again in this Court with the instant writ petition and obtained the Rule with an interim order of stay.

Respondent 2 the General Manager of CIB contested the Rule by filing an affidavit-in-opposition on the statements made therein,

but no statement whatsoever about the defaulting status of the writ petitioner at the relevant time was made.

Nobody on behalf of the petitioner appeared to press the Rule as already stated. It is, however, contended in the writ petition that when the Court was in seisin of the defaulting status of the writ petitioner, inclusion of his name in the list of CIB was absolutely illegal.

Mr. Forrukh Rahman, learned Advocate for respondent 2 submitted that since the writ petitioner failed to repay the loan within time, his name was rightly included in the list of CIB.

We have gone through the records including that of Writ Petition No.3480 of 2010. It appears that the Rule in the earlier writ petition stood discharged for non compliance of the Court's order, which was recorded on 12.01.2011. Admittedly the petitioner was a defaulting borrower and for the purpose of selling his mortgaged property an auction notice under section 12 of the Act, 2003 was published in news paper, challenging which he moved with the earlier writ petition and obtained a Rule with an interim order of stay. There was nothing in the said interim order restraining the respondent 1-bank from including his name in the list of CIB. Therefore, the contention of the writ petitioner that during pendency of the earlier writ petition his name could not be included in the list of

CIB is not tenable. Moreover, the Rule in earlier writ petition stood discharged on 12.01.2011 for non compliance of the Court's order.

In view of the relevant provisions of Bangladesh Bank Order as well as the Bank Company Act, we do not find any illegality in inclusion of the petitioner's name in the list of CIB.

Accordingly, the Rule is discharged. The stay granted earlier stands vacated.

Mohammad Bazlur Rahman, J:

I agree.