

Present:

Mr. Justice S M Kuddus Zaman

CIVIL RULE NO.268 (FM) of 2024.

Progressive Apparels Industries
Limited

...Petitioner

-Versus-

Basic Bank Limited and others

...opposite parties

No one appears

...For the petitioner

Mr. Nikhil Kumar Biswas, Advocate

...For the opposite party No.2

Heard & Judgment on: 26.11.2024.

This Rule was issued calling upon the respondents-opposite parties to show cause as to why an order of injunction shall not be granted restraining the defendants-opposite parties from classifying adverse the loan account of the plaintiff-petitioner and reporting/publishing/showing/circulating the name of the plaintiff-petitioner and its Directors/Mortgagors/Guarantors as defaulter-borrowers in the CIB report of Bangladesh Bank and/or pass such other or further order or orders as to this Court may seem fit and proper.

Facts in short are that the petitioners as plaintiffs instituted Title Suit No.306 of 2024 in the 5th court of Joint District Judge, Dhaka for a

decree declaring that the classification/ reporting/publishing/circulating and provisioning of the names of the plaintiffs as defaulter borrowers to the Credit Information Bureau of the Bangladesh Bank for the loan liabilities of defendant No.3 is illegal without lawful authority and a nullity in the eye of law.

In was alleged that the plaintiffs being a business concern obtained investment facilities loan from the defendant No.2 for an amount of Tk.5,85,00,000.00. The plaintiffs are not willful defaulters but the defendants have most illegally treating the plaintiffs as willful defaulters in paying above loan making endeavors to send the names of the plaintiffs for publication in the Credit Information Bureau Report of the Bangladesh Bank.

In above suit plaintiffs filed a petition under Order 39 Rule 1 of the Code of Civil Procedure for an order of ad-interim injunction restraining the defendants from publication of the names of the plaintiffs in above Credit Information Report as defaulted borrowers.

On consideration of submissions of the learned Advocates for the respective parties and materials on record the learned Joint District Judge, Dhaka

rejected above petition vide impugned order dated 06.06.2024.

Being aggrieved by above judgment and order of the learned Joint District Judge above plaintiffs as appellants preferred First Misc. Appeal Tender No.254 of 2024 and obtained this rule and an order of ad-interim injunction.

No one appears on behalf of the petitioners at the time of hearing of this rule.

Mr. Nikhil Kumar Biswas submits that above Title Suit No.306 of 2024 as well as this rule and ad-interim order of injunction all are barred by Article 41 (1) of the Bangladesh Bank order 1972.

I have considered the submissions of the learned Advocate for the opposite party and carefully examined all materials on record.

Undisputedly the plaintiffs obtained loans in the name of investment facilities for an amount of Tk.5,85,00,000.00 from the defendant No.2 Basic Bank Limited. Above loan was approved and disbursed pursuant to loan agreement between the plaintiffs and the defendant Bank specifying the terms and conditions as to the mode of disbursement of the loan money, schedule of repayment of above loan and all other related issues.

If a loan receiver fails to repay the loan accordingly to the payment schedule agreed upon by the parties he is designated as a defaulter in paying of the loan. The relation of the parties to this appeal and the dispute between them are contractual in nature arising out of the loan agreement. In a case involving contractual dispute an order of temporary injunction is not a just, equitable and appropriate remedy.

In this application under Order 39 rule 1 of the Code of Civil Procedure the petitioners in fact sought the remedy of the original suit without proving their claims and status as set out in the plaint by legal evidence at trial.

As far as the publication of the Credit Information Bureau (CIB) report by the Bangladesh Bank is concerned above jurisdiction of the Bangladesh Bank has been provided by Article 41(1) of the Bangladesh Bank Order 1972. Above Article of the Bangladesh Bank Order has explicitly barred the jurisdiction of a civil court from entertaining any suit or case challenging any action of the Bangladesh Bank initiated under above Article.

In above view of Article 41 of the Bangladesh Bank Order, 1972 and materials on record the learned

Judge District Judge rightly rejected the petition filed by the petitioner under Order 39 Rule 1 of the code of Civil Procedure for an order of injunction against the opposite party restraining them from publication of the name of the plaintiff in the CIB report of the Bangladesh Bank which does not suffer from any legal infirmity or illegality.

In above view of materials on record I am unable to find any substances in this First Miscellaneous Appeal and the rule issued in this connection is liable to be discharged.

In the result, the rule is discharged.

The ad-interim order passed at the time of issuance of the rule is hereby vacated.

Let a copy of this judgment be transmitted down at once.