

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

Present

Mr. Justice Sikder Mahmudur Razi

And

Mr. Justice Raziuddin Ahmed

Writ Petition No. 8537 of 2024

Md. Muktar Hossain

.....Petitioner.

-Versus-

The Government of the People's Republic of
Bangladesh, represented by the Secretary,
Ministry of Finance and others.

.....Respondents.

None appears

.....For the petitioner.

Mr. ASM Abdur Razzaque, Advocate

.....For the respondent Nos. 5 & 6.

The 25th November, 2025

Sikder Mahmudur Razi, J:

Respondent Nos. 5 and 6 filed the instant application praying for discharging the rule as well as vacating the order of stay granted at the time of issuance of rule.

It appears that the petitioner obtained a Rule from this court on 16.07.2024 in the following terms;

“Let a Rule Nisi be issued calling upon the respondents to show cause as to why respondent no. 3 shall not be directed to exercise its jurisdiction as contemplated under section 49(1)(Cha) of the Banking Companies Act, 2023 to dispose of the petitioner's applications dated 19.06.2024, as evidenced by Annexures C and D

and further, as to why the notice of auction, scheduled to be held on 30.11.2015, published in the 'Daily Juger Chinta on 04.11.2015 under sections 12(3) and 5(Ka) of the Artha Rin Adalat Ain, 2003, as evidenced by Annexure E., shall not be declared to be without lawful authority and to be of no legal effect and/or pass such other or further order or orders as to this Court may seem fit and proper”.

Now, the learned Advocate for the respondent Nos. 5 and 6 by filing the instant application submits that an auction notice was published on 04.11.2025 for auction sale of the property mortgaged against the loan facility of the petitioner. The date of auction was fixed on 30.11.2015. Accordingly, bid was dropped on that date and the highest bidder paid all the money accordingly. However, as some mistake was detected in the mutation khatian therefore, upon correcting the same bank published a correction notice in the newspaper and executed registered sale deed in favour of the highest bidder, namely one Bipul Kanti Saha *vide* registered sale deed being No. 8172 dated 17.08.2017 as evident from Annexure-1 to the application for discharging the rule. The learned Advocate further contends that after selling out the mortgaged property in favour of the auction purchaser the possession of the property has also been handed over to him. The learned Advocate next submits

that the petitioner was dismissed from service for embezzlement of bank's money in collusion with others and thereby he was convicted on 02.06.2024 under sections 409/420/477(ka) of the Penal Code along with section 5(2) of the Prevention of Corruption Act, 1947 for 5(five) years imprisonment and with fine of Tk. 1.50 crore. The learned Advocate also raised doubt about the genuineness of the affidavit sworn in the instant writ petition. The learned Advocate next submits that by suppressing all these facts the instant writ petition has been filed. The learned Advocate concludes by submitting that an auction sale under section 12(8) of the Artha Rin Adalat Ain, 2003 creates valid title in favour of the auction purchaser in respect of the validly created mortgaged property and the only remedy of the mortgagor for any illegality or irregularity in the auction is to claim damages from the Bank.

No one appears to oppose the instant application.

On going through the record of the case, it appears that the petitioner without disclosing any of the above facts obtained the instant rule as well as interim order which is a clear fraud upon the court. We also find substance in the submissions of the learned Advocate for the Bank.

Accordingly, the rule issued in the instant writ petition is hereby discharged with cost. The interim order passed at the time of issuance of rule is hereby recalled and vacated.

The writ petitioner is fined with Tk. 2,00,000/- which is to be paid in the Account being No. 4435401017179 (savings account) maintained in the name of the Registrar General & Marshal of Supreme Court of Bangladesh within 7(seven) days from the date of receipt of the order without fail, in default, the authority is at liberty to recover the said amount as per law.

The office is directed to communicate the judgment and order to the concerned authority at once. The office is further directed to communicate a copy of the judgment to the Registrar General of Supreme Court of Bangladesh.

(Sikder Mahmudur Razi, J.)

I agree.

(Raziuddin Ahmed, J.)